

1 BEFORE THE
2 ILLINOIS COMMERCE COMMISSION
3
4 IN THE MATTER OF:)
5))
6 LEVEL 3 COMMUNICATIONS, INC.,)
7) NO. 00 -0332
8 PETITION FOR ARBITRATION)
9 PURSUANT TO SECTION 252(B) OF)
10 THE TELECOMMUNICATIONS ACT OF)
11 1996 TO ESTABLISH AN)
12 INTERCONNECTION AGREEMENT WITH)
13 ILLINOIS BELL TELEPHONE COMPANY))
14 D/B/A AMERITECH ILLINOIS.)

15 CHICAGO, ILLINOIS
16 JULY 17, 2000

17 MET PURSUANT TO NOTICE AT 9:30 A.M.

18 BEFORE:

19 SHERWIN ZABAN AND EVE MORAN,
20 ADMINISTRATIVE LAW JUDGES.

21 APPEARANCES:

22 MR. MICHAEL R. ROMANO,
 1025 ELDORADO BOULEVARD
23 BLOOMFIELD, COLORADO 80021
 -AND-
24 NICHOLS & PENA, BY
 MR. ROGELIO E. PENA,
25 2060 BROADWAY, SUITE 200
 BOULDER, COLORADO 80302
26 APPEARING FOR THE PETITIONER;

1 APPEARANCES: (CONT'D)

2 MAYER, BROWN & PLATT, BY
3 MR. DENNIS FRIEDMAN AND MR. J. TYSON COVEY,
4 190 SOUTH LASALLE STREET
5 CHICAGO, ILLINOIS 60603
6 APPEARING FOR AMERITECH ILLINOIS;

7 MR. G. DARRYL REED AND MS. NORA NAUGHTON,
8 160 NORTH LASALLE STREET, SUITE C-800
9 CHICAGO, ILLINOIS 60601
10 APPEARING FOR STAFF OF THE ICC.

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SULLIVAN REPORTING COMPANY, BY
STEVEN T. STEFANIK, CSR

	I N D E X				
			RE -	RE-	BY
	WITNESSES:	DIRECT	CROSS	DIRECT	CROSS EXAMINER
3	CRAIG MINDELL	370	382	454	
4	ERIC PANFIL	460	463		
5	TIMOTHY OYER	500	502		
6	DEBRA ARON	526	529		
7	MICHAEL SILVER	539	542		585
8	ERIC PANFIL		565		588
9	TORTSEN CLAUSEN	602			597
10	BUD GREEN	606			
11	OLUSANJO OMONIYI	609	613		

12

13

	E X H I B I T S		
	NUMBER	FOR IDENTIFICATION	IN EVIDENCE
15	AMERITECH		
	NO. 2.0	368	382
16	NO. 2.5	368	382
	NO. 2.5 -C	368	382
17	NO. 3.0	454	462
	NO. 4.0	500	502
18	NO. 5.0	526	528
	NO. 6.0/6.1	539	542
19	STAFF		
20	NO. 1.0	609	613
	NO. 2.0	601	605
21	NO. 3.0	606	608

22

1 (WHEREUPON, AMERITECH
2 EXHIBIT NOS. 2.0, 2.5 AND 2.5 -C
3 WERE MARKED FOR IDENTIFICATION
4 AS OF THIS DATE.)

5 JUDGE MORAN: ALL RIGHT.

6 PURSUANT TO THE DIRECTION OF THE ILLINOIS
7 COMMERCE COMMISSION, I CALL DOCKET NO. 00 -0332.
8 THIS IS A PETITION BY LEVEL 3 COMMUNICATIONS, LLC,
9 FOR ARBITRATION PURSUANT TO SECTION 252(B) OF THE
10 TELECOMMUNICATIONS ACT OF 1996 TO ESTABLISH AN
11 INTERCONNECTION AGREEMENT WITH ILLINOIS BELL
12 TELEPHONE COMPANY DOING BUSINESS AS AMERITECH
13 ILLINOIS.

14 MAY WE HAVE THE APPEARANCES FOR THE
15 RECORD, PLEASE.

16 MR. ROMANO: APPEARING FOR PETITIONER, LEVEL 3
17 COMMUNICATIONS, MICHAEL ROMANO, 1025 ELDORADO
18 BOULEVARD, BROOMFIELD, COLORADO 80021 .

19 MR. PENA: ALSO APPEARING FOR LEVEL 3, ROGELIO
20 PENA WITH NICHOLS AND PENA, 2060 BROADWAY, SUITE
21 200, BOULDER, COLORADO 80302.

22 MR. FRIEDMAN: ON BEHALF OF AMERITECH ILLI NOIS,

1 DENNIS FRIEDMAN AND TY COVEY, MAYER, BROWN AND
2 PLATT, 190 SOUTH LASALLE STREET, CHICAGO 60603.

3 MS. NAUGHTON: APPEARING ON BEHALF OF THE STAFF
4 OF THE ILLINOIS COMMERCE COMMISSION, NORA NAUGHTON,
5 N-A-U-G-H-T-O-N, AND DARRYL REED, 160 NORTH LASALLE
6 STREET, CHICAGO 60601.

7 JUDGE MORAN: AND UNLESS I STAND CORRECTED,
8 THOSE ARE ALL THE APPEARANCES BEING MADE IN THIS
9 CASE.

10 AND ARE THERE ANY PRELIMINARY MATTERS
11 THAT THE PARTIES WISH TO PUT ON RECORD OR WISH TO
12 DISCUSS BEFORE WE START CROSS-EXAMINATION?

13 MR. FRIEDMAN: YOUR HONOR --

14 JUDGE ZABAN: WELL, I BELIEVE THERE'S BEEN AN
15 INDICATION THAT TWO MATTERS HAVE BEEN RESOLVED.

16 MR. FRIEDMAN: WITH THE HEARING EXAMINERS'
17 PERMISSION, I WAS GOING TO WALK THROUGH THAT REAL
18 QUICKLY WITH MR. MINDELL.

19 JUDGE ZABAN: OKAY.

20 JUDGE MORAN: THAT'LL BE FINE.

21 AND WHO ARE THE WITNESSES THAT WILL BE
22 TESTIFYING TODAY THAT ARE IN THE ROOM?

1 MR. FRIEDMAN: FIRST, MR. MINDELL, CRAIG
2 MINDELL. THEN ERIC PANFIL, TIM OYER.
3 JUDGE MORAN: COULD THOSE PARTIES RISE?
4 MR. FRIEDMAN: OH, I'M SORRY. DEBRA A RON AND
5 MIKE SILVER.
6 JUDGE MORAN: I'M GOING TO SWEAR YOU ALL AT ONE
7 TIME.
8 (WITNESSES SWORN.)
9 JUDGE MORAN: AND, MR. FRIEDMAN, YOU MAY CALL
10 YOUR FIRST WITNESS.
11 MR. FRIEDMAN: AMERITECH ILLINOIS' FIRST WITNESS
12 THIS MORNING IS CRAIG MINDELL.
13 CRAIG MINDELL,
14 CALLED AS A WITNESS HEREIN, HAVING BEEN FIRST DULY
15 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:
16 DIRECT EXAMINATION
17 BY
18 MR. FRIEDMAN:
19 Q. GOOD MORNING, MR. MINDELL.
20 A. GOOD MORNING.
21 Q. YOU ARE CRAIG MINDELL, ARE YOU?
22 A. YES.

1 Q. WHAT'S YOUR BUSINESS ADDRESS?

2 A. I'M SORRY. THREE BELL PLAZA, DALLAS, TEXAS,
3 ROOM 710.

4 Q. DID YOU PREPARE OR CAUSE TO BE PREPARED ON
5 YOUR BEHALF FOR THIS PROCEEDING THE VERIFIED
6 STATEMENT OF CRAIG MINDELL DATED JUNE 8, 2000,
7 CONSISTING OF 26 PAGES AND FOUR SCHEDULES?

8 A. YES, I DID.

9 Q. AND THE SAME FOR THE VERIFIED REBUTTAL
10 STATEMENT OF CRAIG MINDELL WHICH EXISTS IN BOTH A
11 PUBLIC AND A CONFIDENTIAL VERSION CONSISTING OF FIVE
12 PAGES AND ONE DIAGRAM?

13 A. YES.

14 Q. DO YOU HAVE ANY CORRECTIONS TO ANY OF THAT
15 TESTIMONY?

16 A. I DO HAVE ONE CORRECTION, IF I MAY, ON THE
17 ORIGINAL VERIFIED STATEMENT.

18 PAGE 17, LINE 9. OKAY. ACCORDING TO MY
19 STATEMENT, LEVEL 3 WAS LOOKING AT MONTHLY FORECASTS
20 AND, IN FACT, THEY'RE LOOKING AT QUARTERLY
21 FORECASTS.

22 Q. SO IN LINE 9, YOU WANT TO CHANGE MONTHLY TO

1 QUARTERLY?

2 A. YES, PLEASE.

3 Q. ANY OTHER CORRECTIONS?

4 A. NO.

5 Q. WITH THAT CORRECTION, IF I WERE TO ASK YOU
6 TODAY ALL OF THE QUESTIONS THAT APPEAR IN YOUR
7 INITIAL TESTIMONY AND IN YOUR REBUTTAL TESTIMONY,
8 WOULD YOU GIVE THE SAME ANSWERS THAT APPEAR IN THESE
9 DOCUMENTS?

10 A. YES, I WOULD.

11 Q. WITH THE HEARING EXAMINERS' PERMISSION, I'D
12 LIKE TO ASK YOU A FEW QUESTIONS ABOUT THE STATUS OF
13 CERTAIN ISSUES IN THE CASE.

14 THE FIRST ISSUE, 30, CONCERNING DIRECT
15 AND OFFICE TRUNKING, HAVE THE PARTIES RESOLVED THAT
16 ISSUE?

17 A. WE HAVE.

18 Q. IN GENERAL, ON WHAT TERMS?

19 A. WE HAVE AGREED THAT LEVEL 3 WILL ORDER AND
20 USE END OFFICE TRUNKS DIRECT TO OUR END OFFICES AT
21 SUCH TIME THAT TRAFFIC INDICATES FOR THREE MONTHS
22 THAT 24 TRUNKS ARE REQUIRED.

1 SO WITH THE IDEA OF STABILITY, THREE
2 MONTHS' WORTH OF TRAFFIC AT THAT POINT, THERE WILL
3 BE END OFFICE TRUNKS.

4 Q. ISSUE 29 CONCERNING TRANSIT TRAFFIC, HAVE
5 THE PARTIES RESOLVED THAT ISSUE?

6 A. WE HAVE.

7 Q. ON WHAT TERMS?

8 A. VERY SIMILAR. 24 TRUNKS WORTH OF TRAFFIC
9 REQUIRED THREE MONTHS IN A ROW.

10 AND, THERE, THE QUESTION OF WHAT WAS IT
11 GOING TO TAKE FOR LEVEL 3 TO BE ABLE TO WORK WITH
12 THE INDEPENDENT COMPANIES, AND SO FORTH, TO MAKE
13 THOSE ARRANGEMENTS, WHAT IT SAYS NOW IS THAT THEY
14 WILL WORK OUT THOSE ARRANGEMENTS IN A COMMERCIALY
15 REASONABLE -- I'M THINKING THE VERBIAGE I SAW THIS
16 MORNING. IT SAYS THAT THEY WILL WORK OUT THOSE
17 ARRANGEMENTS; THAT WE WOULD HAVE TO GIVE THEM TWO
18 MONTHS NOTICE BEFORE TERMINATING SERVICE, AND THAT A
19 COMMERCIALY REASONABLE AMOUNT OF TIME WOULD BE
20 ALLOWED TO MAKE THAT WORK.

21 Q. IS THERE ACTUALLY A PIECE OF PAPER THAT
22 SHOWS THE LANGUAGE ON WHICH THE PARTIES HAVE AGREED?

1 A. YES, THERE IS.

2 Q. DOES MR. ROMANO HAVE THAT PAPER?

3 A. YES, HE DOES.

4 MR. ROMANO: IF I MAY CLARIFY FOR THE RECORD,
5 YOUR HONOR, WE HAVE A SORT OF ANNOTATED HANDWRITTEN
6 PIECE OF PAPER FOR THE CONTRACT AND I COULD READ
7 THAT INTO THE RECORD, IF THAT WOULD BE THE MOST
8 HELPFUL WAY ON PROCEEDING ON THIS POINT.

9 IT'S THE LANGUAGE TO WHICH MR. MINDELL
10 AND I DISCUSSED AND AGREED THIS MORNING.

11 JUDGE MORAN: THAT'LL BE SUITABLE.

12 MR. ROMANO: THIS IS LANGUAGE THAT WOULD APPEAR
13 IN SECTIONS 4.2.1 AND 4.3 OF APPENDIX ITR OF THE
14 CONTRACT.

15 AND I'M JUST GOING TO READ THE LANGUAGE
16 AS IT WOULD APPEAR RATHER THAN GOING THROUGH THAT
17 WHOLE -- IT WOULD SAY -- 4.2.1 WOULD SAY, "WHEN
18 TRANSIT TRAFFIC THROUGH THE SBC 13-STATE TANDEM FROM
19 CLEC TO ANOTHER LOCAL EXCHANGE CARRIER, CLEC OR
20 WIRELESS CARRIER REQUIRES 24 OR MORE TRUNKS OVER
21 THREE CONSECUTIVE MONTHS, CLEC SHALL ESTABLISH A
22 DIRECT END OFFICE TRUNK GROUP." AND THE SECTION

1 CONTINUES ON THERE AS DRAFTED INITIALLY BY
2 AMERITECH.

3 4.3 PROVIDES -- AND I'M GOING TO START
4 WITH THE SECOND SENTENCE BEGINNING "ACCORDINGLY."
5 THAT IS WHERE THE FIRST CHANGE WOULD APPEAR.
6 "ACCORDINGLY, SBC 13-STATE WILL PROVIDE CLEC WITH
7 TRANSIT SERVICE FOR A REASONABLE PERIOD OF TIME SO
8 AS TO ALLOW CLEC TO NEGOTIATE, ARBITRATE AND
9 IMPLEMENT SUCH DIRECT ARRANGEMENTS AS CONTEMPLATED
10 BY THE ACT."

11 AND THE NEXT SENTENCE BEGINS, "CLEC
12 AGREES TO USE REASONABLE EFFORTS TO ENTER INTO AN
13 AGREEMENT WITH EACH THIRD-PARTY CARRIER WITH WHOM IT
14 IS EXCHANGING TRAFFIC AS SOON AS POSSIBLE AFTER THE
15 TRAFFIC REACHES THE VOLUMES SPECIFIED IN SECTION
16 4.2.1."

17 FINALLY, "AMERITECH SHALL PROVIDE AT
18 LEAST TWO MONTHS' NOTICE IN WRITING PRIOR TO CEASING
19 TO PROVIDE TRANSIT SERVICE."

20 THOSE ARE THE CHANGES I BELIEVE ON WHICH
21 THE PARTIES AGREED THIS MORNING.

22 JUDGE MORAN: I NOTICED YOU DON'T HAVE A COPY OF

1 THAT LANGUAGE IN FRONT OF YOU, MR. MIND ELL.

2 THE WITNESS: I DO NOT, BUT IT READS VERY

3 AGREEABLE TO ME AT THIS POINT, YES.

4 JUDGE MORAN: OKAY. CAN YOU GIVE ME THE SECOND

5 CITE OF THAT? WAS THAT THE 4.2.3.

6 MR. ROMANO: IT WAS ACTUALLY 4.3. THE

7 AGREEMENT -- ARE 4.2.1 AND 4.3.

8 JUDGE MORAN: THANK YOU.

9 MR. FRIEDMAN: MAY WE GO OFF THE RECORD FOR JUST

10 A MOMENT, PLEASE?

11 JUDGE MORAN: SURE.

12 (DISCUSSION OFF THE RECORD.)

13 JUDGE MORAN: WE'RE BACK ON THE RECORD.

14 MR. ROMANO: SPEAKING OFF THE RECORD, COUNSEL

15 FOR LEVEL 3 AND AMERITECH WORKED THROUGH A SLIGHT

16 TWEAK OF THE LANGUAGE FOR SECTION 4.3, AND I'LL

17 START WITH THE SENTENCE WHERE THE -- AND ONLY READ

18 THE SENTENCE WHERE THE CHANGE APPEARS.

19 IT'S THE SENTENCE, AGAIN, SECTION 4.3

20 THAT BEGINS "ACCORDINGLY." THE SENTENCE WOULD NOW

21 READ AS FOLLOWS:

22 "ACCORDINGLY, SBC 13 -STATE WILL PROVIDE

1 CLEC WITH TRANSIT SERVICE FOR A REASONABLE PERIOD OF
2 TIME SO AS TO ALLOW CLEC TO NEGOTIATE, ARBITRATE (IF
3 AVAILABLE) AND IMPLEMENT SUCH DIRECT ARRANGEMENTS AS
4 CONTEMPLATED BY THE ACT."

5 JUDGE MORAN: IS THAT NOW THE PARTY'S --

6 MR. FRIEDMAN: THAT REFLECTS THE DISCUSSION WE
7 JUST HAD.

8 JUDGE MORAN: VERY GOOD.

9 MR. FRIEDMAN: BACK TO MR. MINDELL?

10 JUDGE MORAN: PLEASE CONTINUE.

11 BY MR. FRIEDMAN:

12 Q. SO WE'VE TALKED ABOUT ISSUES 29 AROUND 30.

13 WHAT IS THE STATUS OF ISSUE 27 CONCERNING
14 POINTS OF INTERCONNECTION?

15 A. OKAY. THE POINTS OF INTERCONNECTION ISSUE
16 HAD TO DO WITH HOW MANY PLACES IN THE LATA WE WERE
17 GOING TO MEET AT FACILITY TO FACILITY IN ORDER TO
18 TRADE TRAFFIC.

19 CURRENTLY, LEVEL 3 HAS ONE POINT OF
20 INTERCONNECTION, BASICALLY DOWNTOWN CHICAGO, AND
21 WE'RE BRINGING TRAFFIC FROM ALL OVER THE LATA AND
22 TERMINATING IT TO LEVEL 3 AT THAT POINT.

1 OUR CONTRACT THAT WE'RE NEGOTIATING
2 SUGGESTS THAT WE SHOULD HAVE A POINT OF
3 INTERCONNECTION AT EVERY TANDEM IN THE LATA.
4 THERE'S SEVEN OF THEM. WE SUGGESTED LAST FRIDAY
5 EARLY THAT WE COULD USE THE SAME KIND OF LANGUAGE TO
6 MAKE SURE THERE'S A SIGNIFICANT AMOUNT OF TRAFFIC,
7 24 TRUNKS' WORTH. IT'S, YOU KNOW, ON A STABLE BASIS
8 AND SO ON, JUST AS WE'RE DOING IN END OFFICE AND
9 TRANSIT TRAFFIC.

10 DURING TESTIMONY, I HEARD ANDREA GAVALEZ
11 SUGGEST AN OC 12'S WORTH OF TRAFFIC, WHICH IS ABOUT
12 8,000 TRUNKS -- SHOULD BE -- THAT 8,000 TRUNKS'
13 WORTH OF TRAFFIC TO AN TANDEM OR THE END OFFICES
14 BEHIND THAT TANDEM WOULD BE TO LEVEL 3 A SIGNIFICANT
15 AMOUNT OF TRAFFIC TO ESTABLISH A POINT OF
16 INTERCONNECTION.

17 I TALKED WITH OUR POLICY PEOPLE LATER ON
18 FRIDAY AND REACHED THEIR AGREEMENT THAT WE COULD
19 SUGGEST A DS-3'S AMOUNT OF TRAFFIC. THAT'S ABOUT
20 672 TRUNKS WORTH OF TRAFFIC AS BEING THE -- SO WE'RE
21 PLAYING WITH THE IDEA OF HOW MUCH TRAFFIC IS
22 SIGNIFICANT AND WE'RE SUGGESTING CURRENTLY 672 AS

1 BEING THAT NUMBER.

2 Q. AND THE PARTIES HAVE NOT ARRIVED AT
3 AGREEMENT ON A NUMBER AS OF THIS MOMENT; IS THAT
4 CORRECT?

5 A. THAT IS CORRECT.

6 Q. WHERE DO WE STAND ON ISSUE 31 CONCERNING
7 FORECASTING?

8 A. OKAY. ISSUE 31 IS, I THINK, VERY NEARLY
9 SETTLED. WE HAVE TALKED AND AGREED TO THERE BEING
10 QUARTERLY FORECASTS FROM LEVEL 3.

11 THE -- I GUESS I COULD TELL YOU THE POINT
12 OF DISAGREEMENT HAS TO DO WITH THE AREA OF INCLUDING
13 THEIR FORECASTS IN OURS AND GIVING NOTICE. THE
14 GIVING NOTICE IS NO PROBLEM. WE'RE HAPPY TO WRITE
15 THEM OR E-MAIL THEM, OR WHATEVER, THAT WE'VE
16 RECEIVED THEIR FORECAST.

17 THE QUESTION OF WHAT IT MEANS TO INCLUDE
18 THEIR FORECASTS IN OURS IS, TO US, STILL SOMETHING
19 OF AN OPEN ISSUE.

20 I DID HERE ANDREA TESTIFY FRIDAY AND I
21 THINK AND IT IS VERY HELPFUL THAT THEY DO -- LEVEL 3
22 SUGGESTS THAT THE FORECASTS SHOULD BE NONBINDING ON

1 BOTH PARTIES. THAT TO THE EXTENT THAT THEY OFFER
2 THE FORECASTS, WE SHOULD USE THE INFORMATION FOR
3 WHATEVER -- THIS IS KIND OF HOW I'M HEARING IT --
4 USE THE INFORMATION FOR WHATEVER ADDITIONAL
5 INFORMATION IT OFFERS, BUT THAT WE DON'T HAVE TO
6 LITERALLY ADD THEIR NUMBER INTO OUR NUMBER TO USE
7 THEIR FORECASTS OR TO INCLUDE THEIR FORECASTS IN
8 OURS.

9 Q. IF LEVEL 3'S VIEW OF THE MEANING OF THE WORD
10 INCLUDE IN THE FORECAST PROVISION IS, IN FACT, AS
11 YOU HAVE JUST DESCRIBED, YOU UNDERSTOOD IT FROM
12 MS. GAVALEZ, AND IF LEVEL 3 IS PREPARED TO PUT
13 LANGUAGE REFLECTING THAT IN THE CONTRACT, WOULD THAT
14 MAKE THAT PROVISION SATISFACTORY FROM AMERITECH
15 ILLINOIS' POINT OF VIEW?

16 A. YES, IT WOULD.

17 Q. ARE THERE ANY OTHER UNRESOLVED PIECES OF THE
18 FORECAST ISSUE?

19 A. I DON'T BELIEVE THERE ARE.

20 MR. FRIEDMAN: OKAY. WITH THAT, AMERITECH
21 ILLINOIS OFFERS IN EVIDENCE AMERITECH ILLINOIS'
22 EXHIBITS 2.0, WHICH IS THE VERIFIED STATEMENT OF

1 CRAIG MINDELL; AND 2.5, THE VERIFIED REBUTTAL
2 STATEMENT; AND 2.5 -C, A CONFIDENTIAL VERSION OF THE
3 REBUTTAL STATEMENT.

4 AMERITECH ILLINOIS WILL PREPARE AND
5 PROVIDE TO THE COURT REPORTER AS SOON AS POSSIBLE,
6 AND I SHOULD CERTAINLY THINK TODAY, WHAT WOULD
7 BECOME AMERITECH EXHIBIT 2.0 -C, WHICH WOULD BE A
8 CONFIDENTIAL VERSION OF 2.0.

9 JUDGE MORAN: OR I BELIEVE IT IS THE PUBLIC
10 VERSION.

11 JUDGE ZABAN: RIGHT. I BELIEVE, ACTUALLY, THE
12 VERSION WE HAVE HERE IS THE CONFIDENTIAL VERSION.
13 YOU WANT TO REDACT CERTAIN --

14 MR. FRIEDMAN: I MISSPOKE. THAT MEANS WHAT WE
15 NOW HAVE IS 2.0 -C, AND I'D BE PROVIDING 2.0, THE
16 PUBLIC VERSION.

17 THANK YOU.

18 JUDGE MORAN: ARE THERE ANY OBJECTIONS TO THE
19 ADMISSION OF THOSE EXHIBITS?

20 MR. ROMANO: NO OBJECTION.

21 JUDGE MORAN: OKAY. WITH THAT, AMERITECH
22 EXHIBIT 2.0 -C, 2.0, 2.5 -C AND 2.5 ARE ADMITTED

1 SUBJECT TO CROSS-EXAMINATION.

2 (WHEREUPON, AMERITECH

3 EXHIBIT NOS. 2.0 -C, 2.0, 2.5-C AND

4 2.5 WERE ADMITTED INTO EVIDENCE AS

5 OF THIS DATE.)

6 JUDGE MORAN: AND, MR. ROMANO, ARE YOU GOING TO

7 BE DOING CROSS?

8 MR. ROMANO: I AM.

9 THANK YOU.

10 JUDGE MORAN: OKAY. PLEASE PROCEED.

11 MR. ROMANO: THANK YOU.

12 CROSS-EXAMINATION

13 BY

14 MR. ROMANO:

15 Q. GOOD MORNING, MR. MINDELL.

16 A. GOOD MORNING.

17 Q. LET'S START BY GOING THROUGH YOUR POINTS OF

18 INTERCONNECTION OR WHAT I'M GOING TO REFER TO AS

19 POIS, FOR SHORTHAND PROPOSALS.

20 AND PUTTING ASIDE THE DISCUSSION OF

21 TRAFFIC LEVELS FOR A MOMENT, IN SHORT, AMERITECH'S

22 PROPOSAL IS TO HAVE LEVEL 3 AND OTHER CLECS

1 INTERCONNECT AT THE TANDEM LEVEL WITH AMERITECH,

2 CORRECT, AT EVERY TANDEM?

3 A. FROM A FACILITIES VIEWPOINT, THAT WOULD BE

4 CORRECT.

5 Q. AND I GUESS ON PAGE 4 OF YOUR VERIFIED

6 STATEMENT, YOU REFER TO THE FACT THAT THE TANDEMS IN

7 THE CHICAGO LATA ARE ABOUT 31 MILES APART ON

8 AVERAGE?

9 A. THAT'S CORRECT.

10 Q. AND THAT'S ON AVERAGE, CORRECT? THAT'S

11 NOT -- AMERITECH HASN'T ACTUALLY PUT THEM IN A

12 WAY -- CONFIGURATION SUCH THAT EACH ONE IS EXACTLY

13 31 MILES FROM THE OTHER?

14 A. THAT'S CORRECT.

15 Q. HAS AMERITECH LOOKED AT ALL THE OTHER LATAS

16 TO SEE HOW FAR OR HOW CLOSE TANDEMS MIGHT BE TO ONE

17 ANOTHER?

18 A. I BELIEVE THERE'S ONLY ONE OTHER LATA IN

19 ILLINOIS THAT HAS MORE THAN ONE TANDEM. AND I CAN'T

20 REMEMBER OFFHAND WHAT THAT IS, BUT I'M THINKING THAT

21 IT'S MORE THAN 31 MILES.

22 THE -- THIS IS BETWEEN THE TWO TANDEMS IN

1 THAT LATA ARE MORE THAN 31 MILES.

2 Q. BUT YOU DON'T --

3 A. I CAN'T REMEMBER RIGHT NOW.

4 Q. DO YOU HAPPEN TO KNOW WHERE LEVEL 3'S

5 INTERCONNECTED WITH AMERITECH TODAY IN ILLINOIS?

6 A. AT THE WABASH TANDEM.

7 Q. AND DO YOU HAPPEN TO KNOW WHERE LEVEL 3

8 ACTUALLY PROVIDES SERVICE TO CUSTOMERS IN THE

9 CHICAGO LATA TODAY?

10 A. I HAVE A LIST OF NXXS THAT LEVEL 3 HAS

11 OPENED UP IN THE LERG, AND I'M THINKING THAT THOSE

12 ARE PROBABLY THE PLACES WHERE THEY'RE EXPECTING

13 CALLS FROM OUR SUBSCRIBERS TO THEIR CUSTOMERS.

14 Q. SO EXPECTING, BUT YOU DON'T KNOW IF THEY

15 ACTUALLY HAVE SUBSCRIBERS THERE OR IF THEY JUST

16 OPENED THOSE CODES OR ARE HOPING TO GET SUBSCRIBERS

17 THERE?

18 A. NO, I DO NOT.

19 Q. SO YOU WOULDN'T KNOW HOW MUCH TRAFFIC MIGHT

20 BE COMING FROM ANY INDIVIDUAL RATE CENTER THAT'S

21 LISTED ON THAT SHEET?

22 A. I DO HAVE AVAILABLE -- OR I KNOW I COULD

1 FIND THE AMOUNT OF TRAFFIC ON THE DIFFERENT TRUNK
2 GROUPS THAT LEVEL 3 HAS.

3 SO TO THE EXTENT THAT WE HAVE TRUNK
4 GROUPS OUT OF DIFFERENT TANDEMS, WE CAN -- WE CAN
5 HONE IN ON HOW MUCH TRAFFIC RIGHT NOW IS COMING FROM
6 DIFFERENT PLACES.

7 Q. BUT YOU HADN'T TRIED TO DO THAT PRIOR TO ANY
8 OTHER PROPOSALS?

9 A. NOT IN ANY FORMAL WAY.

10 Q. ARE YOU AWARE OF WHETHER AMERITECH HAS EVER
11 REQUESTED LEVEL 3 TO ESTABLISH AN ADDITIONAL POINT
12 OF INTERCONNECTION IN THE STATE OF ILLINOIS PRIOR TO
13 THIS CONTRACT?

14 A. I DO NOT KNOW.

15 Q. DO YOU KNOW IF ANYONE IN THE FIELD HAS
16 REQUESTED AMERITECH OR IF ANYONE IN THE FIELD FROM
17 AMERITECH HAS REQUESTED LEVEL 3 TO ESTABLISH A POI
18 SINCE THIS ARBITRATION'S BEEN FILED?

19 A. I BELIEVE WE'VE BEEN, AT THIS POINT,
20 HONORING OUR CURRENT CONTRACT WHICH DOES CALL FOR
21 ONE POINT OF INTERCONNECTION.

22 SO THE PEOPLE IN THE FIELD WOULDN'T FEEL

1 THAT IT WAS UP TO THEM TO DECIDE THAT WE COULD
2 REALLY USE ANOTHER ONE.

3 Q. BUT YOU'RE AWARE, AREN'T YOU, THAT LEVEL 3
4 HAD AGREED IN CERTAIN INSTANCES TO GO BEYOND A
5 SINGLE POINT OF INTERCONNECTION IN THE LATA WHERE WE
6 BELIEVE THAT THE TRAFFIC LINE'S DICTATED, CORRECT?

7 A. IN ILLINOIS OR WHERE?

8 Q. ANYWHERE FROM YOUR PERSONAL KNOWLEDGE.

9 A. I THINK OF ALL THE PLACES THAT WE'RE
10 INTERCONNECTING NOW WITH LEVEL 3 IN THREE LATAS.
11 THERE'S MORE THAN ONE POINT OF INTER CONNECTION.

12 Q. HAS LEVEL 3 -- OR LET ME STEP BACK.

13 LEVEL 3 HASN'T SAID HERE IT'S WILLING TO
14 ONLY ESTABLISH ONE POINT OF INTERCONNECTION FOR A
15 LATA, CORRECT?

16 A. LEVEL -- NO. LEVEL 3 HAS OFFERED, INSTEAD,
17 SOMETHING THAT SOUNDS LIKE THEY WANT TO USE SOUND
18 ENGINEERING PRINCIPLES TO COME UP WITH WHEN IT IS
19 THAT IT WOULD BE BENEFICIAL TO ESTABLISH ANOTHER
20 POINT OF INTERCONNECTION.

21 Q. AND YOU PROPOSE A DS-3 LEVEL OF TRAFFIC NOW
22 FOR WORKING PURPOSES OF IDENTIFYING WHEN AN

1 ADDITIONAL POI MIGHT BE REQUIRED ON A TANDEM?

2 A. THAT'S CORRECT.

3 Q. HOW MANY LINES, CONSECUTIVE OR SIMULTANEOUS
4 CALLS CAN BE HANDLED OVER A DS-3?

5 A. 672.

6 Q. HOW MANY AMERITECH CUSTOMERS SIT BEHIND THE
7 AVERAGE TANDEM, DO YOU KNOW?

8 A. OH. YEAH.

9 Q. HOW MANY CALL LINES?

10 WOULD YOU EXPECT --

11 A. I COULDN'T TELL YOU THAT. WE COULD THINK OF
12 200,000, 300,000, SOMETHING LIKE THAT.

13 Q. SO IT'D BE IN THE HUNDREDS OF THOUSANDS OF
14 LINES SITTING BEHIND A TANDEM, TYPICALLY?

15 A. THAT'S CORRECT.

16 Q. IS THERE ANY WAY THAT AMERITECH HAS THAT
17 INFORMATION AVAILABLE OR CAN MAKE THAT INFORMATION
18 AVAILABLE TO US?

19 A. SURE.

20 MR. ROMANO: OKAY. COULD I MAKE A RECORD
21 REQUEST, PLEASE, THAT AMERITECH PRODUCE ANY
22 INFORMATION IT HAS, EITHER AVERAGE OR ACTUAL NUMBERS

1 OF LINES SITTING BEHIND THE TANDEMS IN THE CHICAGO
2 LATA?

3 JUDGE ZABAN: OKAY. THAT'LL BE GRANTED. WE 'LL
4 MAKE THAT PART OF THE RECORD.

5 IS THAT CONFIDENTIAL, MR. FRIEDMAN?

6 MR. FRIEDMAN: I DON'T KNOW. BUT IF IT IS
7 CONFIDENTIAL, WE'LL LET EVERYONE KNOW.

8 JUDGE ZABAN: OKAY. AT THE TIME YOU OFFER IT,
9 WE'LL CONSIDER THAT. BUT, OTHERWISE, WE'LL MAKE
10 THAT A PART OF THE RECORD.

11 BY MR. ROMANO:

12 Q. OKAY. ON PAGE 5 OF YOUR VERIFIED STATEMENT,
13 YOU REFER TO "SIGNIFICANT COSTS," I BELIEVE ON LINE
14 17 ASSOCIATED WITH HAULING TRAFFIC TO POINTS OF
15 INTERCONNECTION?

16 A. THAT'S CORRECT.

17 Q. AND I THINK YOU ALSO REFER TO THESE COSTS ON
18 LINE 19 AS DISTANCE SENSITIVE?

19 A. THAT'S CORRECT.

20 Q. AND WOULD YOU AGREE NOW THAT THEY'RE TRAFFIC
21 SENSITIVE AS WELL SINCE -- SUCH AS THE MINUTES AND
22 NUMBER OF LINES BEING USED, ET CETERA, ARE GOING TO

1 INCREASE OR DECREASE THE COST --

2 A. YES.

3 Q. -- AT AMERITECH?

4 SO YOU WOULD AGREE THEN THAT A
5 COST/BENEFIT ANALYSIS IS GOING TO BE IMPORTANT IN
6 DETERMINING WHEN AND WHERE TO ESTABLISH POINTS OF
7 INTERCONNECTION?

8 A. NOT NECESSARILY, BECAUSE TO THE EXTENT THAT
9 THESE COSTS ARE THERE, THEY'RE NOT OUR COSTS IS KIND
10 OF WHAT WE'RE SAYING.

11 THAT TO THE EXTENT THAT SOMEBODY IN
12 SUGAR GROVE, ILLINOIS, PLACES A CALL 40 MILES INTO
13 CHICAGO, YOU KNOW, TO CONTACT HIS ISP, THAT THOSE
14 COSTS DON'T BELONG TO AMERITECH ON A LOCAL CALL
15 BASIS; THAT THEY BELONG, REALLY, TO LEVEL 3 FOR
16 TRANSPORTING IT.

17 Q. THEY'RE NOT YOUR COSTS, BUT THEY ARE YOUR
18 CUSTOMERS MAKING THOSE CALLS?

19 A. THEY'RE OUR CUSTOMERS -- YES.

20 Q. YOUR TESTIMONY DOESN'T QUANTIFY -- ON PAGE 5
21 OF YOUR TESTIMONY WHERE YOU DISCUSS THESE
22 SIGNIFICANT COSTS, YOU DON'T PROVIDE ANY

1 QUANTIFICATION OF THOSE COSTS, DO YOU?

2 A. I DO NOT.

3 Q. PAGE 7, LINES 8 THROUGH 19, YOU DISCUSS A
4 BUSINESS ANALOGY TO HELP ILLUSTRATE YOUR POINT THAT
5 LEVEL 3'S MADE CERTAIN CHOICES IN SETTING UP ITS
6 NETWORK. DO YOU --

7 A. CORRECT.

8 Q. DO YOU KNOW HOW LEVEL 3 ACTUALLY SET UP ITS
9 NETWORK IN ILLINOIS OR WHOM WITHIN AMERITECH LEVEL 3
10 WORKED WITH IN SETTING UP ITS NETWORK IN ILLINOIS?

11 A. THE BUSINESS ANALOGY I'M USING IN -- THE
12 NETWORK SETUP I'M USING RELATES TO LEVEL 3'S CHOICE
13 OF HAVING ONE SWITCH IN THE LATA. AND I DO KNOW
14 THAT THERE IS JUST ONE LEVEL 3 SWITCH IN THE CHICAGO
15 LATA RIGHT NOW.

16 Q. OKAY.

17 A. WHAT IT SUGGESTS IS THAT BY HAVING ONE
18 SWITCH INSTEAD OF SEVERAL SWITCHES FOR LEVEL 3, ONE
19 POINT OF INTERCONNECTION IS ALWAYS GOING TO LOOK
20 BETTER THAN SEVERAL POINTS OF INTERCONNECTION
21 BECAUSE THEY'LL WANT TO CONNECT, NATURALLY, AS CLOSE
22 TO THEIR SWITCH AS THEY CAN.

1 WHAT IT MEANS IS THAT THERE'S MORE
2 TRANSPORT COSTS OF GETTING ALL THAT TRAFFIC INTO THE
3 CENTRAL SWITCH THAN THERE MIGHT BE IF THEY WERE
4 DECENTRALIZED IN SWITCHING.

5 Q. NOW, YOU JUST SAID -- YOU USED THE WORD
6 ALWAYS GOING TO LOOK BETTER, A SINGLE POINT OF
7 INTERCONNECTION IS ALWAYS GOING TO LOOK BETTER. BUT
8 YOU JUST TESTIFIED EARLIER THAT LEVEL 3 HAS, IN
9 FACT, AGREED TO ESTABLISH ADDITIONAL POINTS OF
10 INTERCONNECTION, TO YOUR PERSONAL KNOWLEDGE?

11 MR. FRIEDMAN: I'M SORRY. SO THAT THE RECORD IS
12 CLEAR, I BELIEVE THE WITNESS TESTIFIED THAT SO LONG
13 AS LEVEL 3 HAS JUST ONE SWITCH --

14 MR. ROMANO: CORRECT.

15 MR. FRIEDMAN: -- IT WILL ALWAYS LOOK BETTER.

16 MR. ROMANO: CORRECT.

17 THE WITNESS: YEAH. AND WE TALKED TO ANDREA A
18 LITTLE BIT, I MEAN, IN QUESTIONING HER WHATEVER
19 FRIDAY, AND I -- THIS STILL SOUNDS EXACTLY RIGHT TO
20 ME; THAT, AS LONG AS THERE'S JUST ONE SWITCH, THAT
21 WOULD BE LEVEL 3'S PREFERENCE.

22 AT SUCH A TIME THAT LEVEL 3 GOT A SECOND

1 SWITCH, THEN IT WOULD LOOK POSSIBLY EVEN DESIRABLE
2 TO INTERCONNECT AT THAT SECOND SWITCH. THAT THERE
3 MAY HAVE BEEN OCCASIONS IN OTHER LATAS WHEN WE WERE
4 JUST OUT OF FACILITIES AND UNABLE TO BEEF UP
5 LEVEL 3'S TRAFFIC.

6 AND SO THERE MIGHT HAVE BEEN OTHER
7 REASONS BASED ON THAT INTERACTION OR WHATEVER WHERE
8 LEVEL 3 HAS ACCEPTED MORE THAN ONE POINT OF
9 INTERCONNECTION, BUT NOT BECAUSE IT WOULD LOOK
10 BETTER OR BE CHEAPER OR EASIER OR BETTER JUST FOR
11 LEVEL 3'S VIEWPOINT.

12 BY MR. ROMANO:

13 Q. NOW, YOU JUST USED THE WORD INTERCONNECT AT
14 LEVEL 3'S SWITCH.

15 IN FACT, WE'D BE INTERCONNECTING WITH THE
16 AMERITECH TANDEM SWITCHES, WOULDN'T WE?

17 A. YES -- AND WE ARE TALKING FACILITIES, SO WE
18 COULD -- IF WE TALKED ABOUT ANY TWO POINTS, WE COULD
19 TALK ABOUT INTERCONNECTING ANYWHERE BETWEEN THEM.

20 Q. DO YOU KNOW HOW AMERITECH AND LEVEL 3 AGREED
21 TO THE SINGLE POINT OF INTERCONNECTION IT HAS TODAY?
22 DO YOU KNOW ANY OF THE BACKGROUND OF THOSE

1 DISCUSSIONS?

2 A. MY UNDERSTANDING OF THOSE DISCUSSIONS -- AND
3 SOME OF THIS GOES TO THE TESTIMONY THAT WE HEARD
4 FROM -- WAS IT DR. HARRIS FRIDAY AFTERNOON.

5 AT THE TIME THAT WE DREW UP THE ORIGINAL
6 CONTRACT WITH LEVEL 3, THERE WAS A MILEAGE-SENSITIVE
7 COMPONENT FOR TRANSPORT, EVEN FOR LOCAL TRAFFIC. TO
8 THE EXTENT THAT IF TRAFFIC HAD TO BE HAULED, YOU
9 KNOW, FROM, AGAIN, SUGAR GROVE BACK INTO CHICAGO,
10 ABOUT 40 MILES AWAY, IF IT WERE LEVEL 3'S CUSTOMERS
11 CALLING OUR CUSTOMERS, THEY WOULD PAY THAT
12 MILEAGE-SENSITIVE COMPONENT. AND IF IT WERE OUR
13 CUSTOMERS CALLING LEVEL 3, WE WOULD PAY IT.

14 WE EXPECTED THAT TO AMELIORATE SOME OF
15 THE COSTS INVOLVED IN HAVING JUST A SINGLE POINT OF
16 INTERCONNECTION. IN FACT, TRAFFIC HASN'T WORKED OUT
17 IN THAT BIDIRECTIONAL MODE AT ALL. IT'S BEEN
18 BASICALLY SINGLE DIRECTION FROM US TO LEVEL 3.

19 SO THE LOOK OF THE NETWORK, THE USES OF
20 IT, THE FUNCTIONS OF IT HAS BEEN DIFFERENT THAN WE
21 EXPECTED WHEN WE NEGOTIATED THAT CONTRACT.

22 Q. BUT, AGAIN, AMERITECH HASN'T COME BACK TO

1 SEEK ADDITIONAL POINTS OF INTERCONNECTION AS --

2 A. AND I DON'T KNOW TO WHAT EXTENT THAT MAY OR
3 MAY NOT HAVE OCCURRED.

4 Q. ON PAGE 8 OF YOUR TESTIMONY, YOU DISCUSS
5 SECTION 251(C)(2), AND I KNOW YOU START OFF WITH THE
6 COMMON CAVEAT THAT YOU'RE NOT A LAWYER.

7 JUDGE MORAN: I'M SORRY. WHAT PAGE?

8 MR. ROMANO: PAGE 8 OF THE VERIFIED STATEMENT,
9 LINES 5 THROUGH 22.

10 JUDGE MORAN: OKAY.

11 BY MR. ROMANO:

12 Q. BY YOUR STATEMENT ON LINES 5 THROUGH 7, YOU
13 DO UNDERSTAND THAT 251(C) IMPOSES CERTAIN DUTIES ON
14 AMERITECH BY STATING IN LINE 7 THAT REQUIRES
15 INTERCONNECTION; IS THAT --

16 A. YES.

17 Q. -- GENERAL UNDERSTANDING?

18 AND YOU CITE TO WHAT I BELIEVE IS
19 SUBPOINT A OF THAT SECTION 251(C)(2) IN TALKING
20 ABOUT THE INTERCONNECTION OBLIGATIONS. DO YOU
21 HAPPEN TO KNOW IF THAT'S RIGHT OR --

22 A. AND I DID HAVE SOME HELP FROM MY ATTORNEYS,

1 I GUESS, IN COMING UP WITH THIS.

2 WHAT I'M -- I AM MOST OR MORE FAMILIAR
3 WITH IS THE FIRST REPORT AND ORDER FROM THE FCC
4 WHERE THEY WERE INTERPRETING THESE 251(C)
5 PROVISIONS.

6 Q. MAYBE IT'LL HELP TO HAVE 251(C)(2) IN FRONT
7 OF YOU.

8 A. OKAY.

9 Q. I CAN PROVIDE THIS.

10 A. OKAY. WILL THERE BE MORE THAN JUST (C)(2)?
11 DO YOU HAVE SOMETHING THAT GOES ON --

12 Q. I HAVE, I THINK, MUCH OF 251, BUT I'VE GOT
13 THE PAGE OF 251(C) RIGHT THERE.

14 A. OKAY. GREAT.

15 MR. ROMANO: DENNIS, DO YOU NEED A COPY? OR I
16 HAVE A COPY.

17 JUDGE MORAN: DO YOU HAVE A COPY FOR US? THAT
18 WOULD BE GREAT.

19 MR. FRIEDMAN: THE -- THE USUAL THING TO DO IS
20 TO AWAIT A QUESTION BEFORE MAKING AN OBJECTION.

21 I AM GOING TO OBJECT TO QUESTIONS OF THIS
22 WITNESS CONCERNING WHAT THE ACT SAYS OR MEANS OR

1 WHAT THE FIRST REPORT AND ORDER SAYS OR MEANS ON THE
2 FOLLOWING GROUNDS --

3 MR. ROMANO: YOUR HONOR, I WASN'T GOING TO ASK
4 HIM WHAT THAT MEANS.

5 JUDGE MORAN: WHY DON'T WE WAIT --

6 MR. FRIEDMAN: ALL RIGHT.

7 MR. ROMANO: I WAS JUST GOING TO ASK HIM WHETHER
8 HE CONSIDERED CERTAIN PORTIONS OF THE ACT.

9 JUDGE MORAN: OKAY.

10 BY MR. ROMANO:

11 Q. NOW, 251(A) -- EXCUSE ME, 251(C)(2)(A),
12 COULD YOU -- IT SAYS, DOES IT NOT, THAT TRANSMISSION
13 AND ROUTING OF TELEPHONE EXCHANGE SERVICE AND
14 EXCHANGE ACCESS, THE INCUMBENT MUST PROVIDE
15 INTERCONNECTION FOR THAT PURPOSE?

16 A. YES, IT DOES.

17 Q. AND THAT'S -- TRACKS YOUR FIRST SENTENCE OF
18 YOUR RESPONSE ON PAGE 8, CORRECT?

19 A. CORRECT.

20 Q. DID YOU TAKE INTO ACCOUNT AT ALL SUBSECTION
21 B, THE POINT B THERE, TO 251(C)(2), WHICH STATES
22 THAT A REQUESTING CARRIER CAN INTERCONNECT AT ANY

1 TECHNICALLY FEASIBLE POINT WITHIN THE CARRIER'S
2 NETWORK?

3 A. I TOOK THAT INTO ACCOUNT AS WELL AS THE
4 FCC'S FIRST REPORT AND ORDER ADDRESSING THAT AND,
5 AGAIN, NOT AS AN ATTORNEY, BUT BECAUSE TO ME THIS
6 GOES TO THE HEART OF THE ISSUE.

7 WHAT THE FCC SAYS IS, YES, WE NEED TO
8 CONNECT WHERE YOU'D LIKE US TO, IF IT'S FEASIBLE AND
9 THAT WE SHOULDN'T BE TRYING TO FORCE THE SHAPE OF
10 YOUR NETWORK INTO THE SHAPE OF OURS, BUT IT GOES ON
11 TO SAY, BUT YOU NEED TO REIMBURSE US FOR COSTS
12 ASSOCIATED WITH THAT.

13 AND SO ONE OF THE POSSIBLE WAYS TO LOOK
14 AT THIS IS RATHER THAN SAYING WE NEED YOU TO HAVE X
15 NUMBER OF POIS, IS YOU CAN HAVE ONE NUMBER OF POIS
16 YOU WANT AND REIMBURSE US FOR THE COSTS INVOLVED IN
17 NOT HAVING THE NUMBER THAT WE THINK WOULD BE FAIR
18 AND JUST VERSUS IF WE WERE TO LEASE YOU FACILITIES
19 TO GET TO THOSE OTHER SPOTS.

20 Q. WELL, IT'S INTERESTING YOU BRING UP THE
21 FCC'S REPORT AND ORDER.

22 DID THE FCC REPORT AND ORDER ALSO SAY

1 THAT ONE SHOULD NOT CONSIDER ECONOMIC -- OR TAKE
2 INTO ACCOUNT ECONOMIC CONSIDERATIONS IN DETERMINING
3 WHETHER A SINGLE POINT OF INTERCONNECTION IS
4 TECHNICALLY FEASIBLE OR NOT?

5 A. IT SAYS THAT FOR TECHNICALITY FEASIBILITY,
6 THE QUESTION OF ECONOMICS AND BILLING AND SO ON
7 AREN'T TO BE TAKEN INTO ACCOUNT, BUT THAT, OF
8 COURSE, YOU WOULD REIMBURSE US FOR REASONABLE --
9 REASONABLE COSTS INVOLVED IN DOING IT SOME OTHER
10 WAY.

11 Q. AND AREN'T LEVEL 3 AND AMERITECH
12 COMPENSATING EACH OTHER TODAY FOR THE PURPOSES OF
13 INTERCONNECTING AND EXCHANGING TRAFFIC?

14 A. NO, AND THAT HAS TO DO WITH THAT ONE-WAY,
15 TWO-WAY TRAFFIC PROBLEM THAT I AS TALKING ABOUT.
16 THAT TO THE EXTENT THAT THIS TRAFFIC IS
17 ONE WAY --

18 Q. SO LEVEL 3 DOESN'T PAY TO ESTABLISH
19 COLLOCATION ARRANGEMENTS AT AMERITECH'S TANDEM TO
20 TAKE OUT THAT TRAFFIC AT THE POINT OF
21 INTERCONNECTION AND BRING IT BACK TO ITS OWN
22 FACILITY?

1 A. AMERITECH DOESN'T PAY THE ADDITIONAL
2 TRANSPORT COSTS INVOLVED IN THERE ONLY BEING ONE
3 POINT OF INTERCONNECTION LOCATED NEAR AMERITECH'S
4 SWITCH VERSUS MORE POINTS OF INTERCONNECTION THAT
5 ARE CLOSER TO THE END USER'S PLACING THE CALLS.

6 MR. FRIEDMAN: EXCUSE ME. BEFORE YOU ASK YOUR
7 QUESTION, I'D LIKE THE REPORTER TO READ BACK THE
8 LAST ANSWER. I BELIEVE THE WITNESS MISSPOKE. AND
9 IF YOU'LL LISTEN, YOU MAY WANT TO CORRECT ONE WORD.

10 (RECORD READ AS REQUESTED.)

11 THE WITNESS: I'M SORRY. LEVEL 3 DOESN'T PAY.

12 BY MR. ROMANO:

13 Q. BUT YOU ANSWERED NO ALSO TO LEVEL 3 AND
14 AMERITECH AREN'T COMPENSATING EACH OTHER, AND YOU
15 JUST THEN JUST ADMITTED THAT LEVEL 3 DOES PAY TO
16 ESTABLISH COLLOCATION AND PAYS FOR TRUNKS, ET
17 CETERA, CORRECT, ON AN NONRECURRING BASIS?

18 A. THAT'S CORRECT.

19 JUDGE MORAN: JUST TO CLEAR UP THE RECORD, THAT
20 SHOULD BE --

21 THE WITNESS: LEVEL 3 DOES NOT PAY FOR --

22 JUDGE MORAN: OPPOSED TO AMERITECH --

1 THE WITNESS: -- THE LOCAL TRANSPORT COSTS, YES.

2 BY MR. ROMANO:

3 Q. LET ME TALK TO YOU ABOUT TRANSITIONING TO
4 ADDITIONAL POINTS OF INTERCONNECTION, IF NECESSARY,
5 BECAUSE --

6 A. OKAY.

7 Q. -- YOU'D AGREE, AT THIS POINT, WE'RE TALKING
8 ONLY ABOUT WHAT VOLUMES MIGHT BE APPROPRIATE FOR
9 ESTABLISHING ADDITIONAL POINTS OF INTERCONNECTION.
10 BOTH PARTIES GENERALLY AGREED THAT ADDITIONAL POINTS
11 OF INTERCONNECTION SHOULD BE ESTABLISHED, RIGHT?

12 A. YES.

13 Q. LET'S TALK ABOUT HOW THAT TRANSITION MIGHT
14 BE EFFECTUATED.

15 AS I UNDERSTAND IT UNDER YOUR
16 INTERCONNECTION AGREEMENT, THE SECTIONS THE PARTIES
17 AGREE TO, THERE ARE BASICALLY FOUR OPTIONS FOR
18 ESTABLISHING INTERCONNECTION; DOES THAT SOUND RIGHT?

19 A. OKAY. THAT'S CORRECT.

20 Q. AND FOR REFERENCE, IT'S SECTION 3, I
21 BELIEVE, OF APPENDIX NIM, IF YOU WANT TO TAKE A LOOK
22 AT THAT.

1 AND I PRESUME YOU'RE FAMILIAR WITH THIS
2 SECTION, BUT IS IT SAFE TO SAY THERE ARE FOUR
3 OPTIONS SET FORTH IN THAT SECTION 3; PHYSICAL
4 COLLOCATION, VIRTUAL, LEASED FACILITIES, AND FIBER
5 MEET?

6 A. YES, THAT'S CORRECT.

7 Q. SO UNDER OPTIONS 1 AND 2 -- LET'S START
8 THERE, SINCE THOSE ARE TWO OPTIONS AVAILABLE, THE
9 FIRST TWO OPTIONS AVAILABLE.

10 BASICALLY, UNDER THOSE, LEVEL 3 COULD
11 COLLOCATE OUT OF PHYSICALLY OR VIRTUALLY TO
12 ESTABLISH A POINT OF INTERCONNECTION, RIGHT?

13 A. THAT'S CORRECT.

14 Q. DO YOU HAPPEN TO KNOW HOW LONG IT TAKES ON
15 AVERAGE FOR AMERITECH TO PROCESS AND PROVISION
16 COLLOCATION SPACE FOR A CARRIER IN THE STATE OF
17 ILLINOIS?

18 A. I'M THINKING 90 DAYS.

19 Q. 90 BUSINESS OR CALENDAR DAYS?

20 A. I CAN'T TELL YOU. I'M SORRY.

21 MR. ROMANO: I GUESS I WOULD ASK THE -- I BELIEVE
22 THIS IS IN TARIFF NO. 20, AND I COULD PRODUCE IT, IF

1 WE LIKE, BUT I GUESS I COULD JUST ASK THE COMMISSION
2 TO TAKE NOTICE THAT THE INTERVALS SEEM TO BE
3 CONTAINED IN AMERITECH'S (SIC) ILLINOIS TARIFF
4 NO. 20, PART 23, SECTION 4.

5 IF YOU'D LIKE, I CAN PRODUCE A COPY OF IT
6 IF YOU WANT TO VERIFY THAT OR --

7 MR. FRIEDMAN: WE DON'T HAVE ANY OBJECTION TO
8 THE COMMISSION TAKING NOTICE OF ANY OF OUR TARIFFS.

9 JUDGE ZABAN: THAT'S FINE.

10 BY MR. ROMANO:

11 Q. SO IT'S AT LEAST 90 CALENDAR DAYS, PERHAPS
12 90 BUSINESS DAYS?

13 A. YES, YES. AND I'M -- YEAH.

14 Q. DO YOU KNOW -- HAPPEN TO KNOW WHAT IT COSTS
15 TO ESTABLISH -- LET'S SAY WE'RE GOING TO TAKE THE
16 PHYSICAL COLLOCATION. WHAT IT COSTS TO ESTABLISH A
17 CAGED COLLOCATION ARRANGEMENT IN ILLINOIS?

18 A. I DON'T. I KNOW THAT COST IS SOMETHING YOU
19 WOULD NOT WANT TO PAY, AND WE WOULD NOT SUGGEST YOU
20 PAY, NOR THAT LENGTH OF TIME IF ALL YOU'RE DOING IS
21 ESTABLISHING COLLOCATION TO MEET US ON A FACILITIES
22 BASIS FOR THE TRANSPORT OF THIS TRAFFIC.

1 THE COLLOCATION OPTION THAT'S IN HERE IS
2 THERE IN CASE YOU'RE ALREADY COLLOCATED FOR OTHER
3 REASONS. YOU WANT TO PICK UP UNES OR WHATEVER IN
4 THAT OFFICE. AND YOU COULD USE THAT COLLOCATION
5 SITE FOR THE INTERCONNECTION OF TRAFFIC AS LONG AS
6 IT'S ALREADY THERE.

7 IT WOULD BE COUNTERPRODUCTIVE AND NOT MY
8 RECOMMENDATION TO YOU.

9 Q. BUT IF IT'S A SIGNIFICANT AMOUNT OF TRAFFIC,
10 A CARRIER MIGHT WANT TO ESTABLISH ITS OWN FACILITIES
11 IN THE CENTRAL OFFICE FOR BETTER CONTROL OR PICK UP
12 THAT TRAFFIC AND TAKE THEM BACK OVER ITS OWN
13 FACILITIES, CORRECT?

14 A. I CAN'T THINK OF A REASON WHY; THAT THE
15 FIBER MEET OR ANY OF THE OTHER WAYS WOULD STILL GIVE
16 YOU THE CONTROL THAT YOU MIGHT WANT FOR THAT
17 TRAFFIC.

18 Q. WOULD YOU ACCEPT --

19 A. YES.

20 Q. SPEAKING FROM ON HIGH.

21 WOULD YOU ACCEPT THAT ILLINOIS (SIC)
22 TARIFF NO. 20, PART 23, SECTIONS 4 AND 5 LISTS COSTS

1 SOMEWHERE IN THE TENS OF THOUSANDS OF DOLLARS TO
2 ESTABLISH CAGED COLLOCATION SPACE?

3 A. YES.

4 Q. DO YOU HAPPEN TO KNOW IF AMERITECH IS
5 SUFFERING FROM A LACK OF COLLOCATION SPACE IN ANY OF
6 ITS TANDEMS IN ILLINOIS TODAY?

7 A. I DON'T KNOW.

8 Q. AND LET'S SAY THAT LEVEL 3 HAS IN THE PAST
9 AND WILL CONTINUE IN THE FUTURE TO USE CAGED
10 COLLOCATION TO ESTABLISH INTERCONNECTION. IF IT HAD
11 TO INTERCONNECT AT EACH TANDEM AND COLLOCATION SPACE
12 IN CERTAIN TANDEMS WERE EXHAUSTED, ITS ONLY
13 REMAINING TWO OPTIONS WOULD BE THE OTHER TWO OPTIONS
14 FOR INTERCONNECTION IDENTIFIED IN THIS SECTION 3,
15 CORRECT?

16 A. WHICH WOULD BE BETTER OPTIONS TO BE BEGIN
17 WITH, ANYWAY, IF IT WAS JUST FOR US TO EXCHANGE
18 TRAFFIC, SURE.

19 I MEAN, I WOULDN'T FEEL CHEATED IF I WERE
20 LEVEL 3 AND WERE DOWN TO THOSE OTHER TWO OPTIONS.

21 Q. LET'S TURN TO OPTION 3 THEN, A LEASED
22 FACILITY INTERCONNECTION.

1 UNDER OPTION 3, WE COULD LEASE FACILITIES
2 FROM AMERITECH TO MORE OR LESS EXTEND THE LEVEL 3
3 NETWORK TO REACH THE DESIGNATED POINT OF
4 INTERCONNECTION, RIGHT?

5 A. CORRECT.

6 Q. AND TO BE CLEAR, POINT OF INTERCONNECTION IS
7 THE POINT AT WHICH, ESSENTIALLY, YOUR NETWORK ENDS
8 AND OUR NETWORK BEGINS OR VICE VERSA; IT'S A
9 DEMARCATION POINT BETWEEN THE TWO NETWORKS?

10 A. FOR FACILITIES.

11 Q. CORRECT.

12 A. YES.

13 Q. DO YOU HAPPEN TO KNOW IF AMERITECH IS
14 SUFFERING FROM A SHORTAGE OF INTEROFFICE FACILITIES
15 IN ITS NETWORK TODAY?

16 A. I DON'T BELIEVE THAT WE ARE.

17 Q. ISN'T IT POSSIBLE THAT AMERITECH MIGHT NOT
18 WANT TO PROVIDE FACILITIES ALONG A CERTAIN ROUTE
19 BECAUSE IT WANTS TO RESERVE THOSE FACILITIES FOR ITS
20 OWN USE OR IT'S MAKING USE OF THOSE FACILITIES TODAY
21 AND ANTICIPATES FORECASTED DEMAND FOR THOSE
22 FACILITIES?

1 A. I'M HAVING A HARD TIME ENVISIONING IT.

2 MY TECHNICAL ANSWER PROBABLY WOULD BE I
3 DON'T KNOW, BUT I'M NOT THINKING THAT THAT'S A BIG
4 ISSUE; THAT WE EXPECT REALLY TO BE ABLE TO OFFER
5 FACILITIES TO LEASE. ON AN INTEROFFICE BASIS, WE DO
6 COMMONLY LEASE FACILITIES.

7 Q. AND LEVEL 3 WOULD PAY THE -- WOULD IT BE THE
8 UNBUNDLED TRANSPORT RATE FOR THOSE FACILITIES? IS
9 THAT WHAT LEVEL 3 WOULD PAY FOR THOSE LEASED
10 FACILITIES?

11 A. I DON'T KNOW IF IT'S THAT OR SPECIAL ACCESS.

12 Q. SO IT MIGHT BE SPECIAL ACCESS.

13 THE CONTRACT DOESN'T IDENTIFY WHAT THE
14 RATES ARE?

15 A. YEAH. YEAH, IT MIGHT BE -- SPECIAL ACCESS
16 WOULD BE OUR PREFERENCE, OF COURSE.

17 YOUR QUESTION TO ME, AND I'VE BEEN
18 THINKING ABOUT THIS IS, COULD I GET IT FOR YOU
19 WHOLESALE.

20 Q. I GUESS THOSE ARE A LITTLE BIT HIGHER THAN
21 SPECIAL ACCESS RATES, AT LEAST A LITTLE BIT HIGHER,
22 CORRECT?

1 A. SURE. AT THAT POINT, IT'S JUST -- YEAH.

2 Q. DO YOU HAPPEN TO KNOW WHAT THE INTERVALS ARE
3 FOR GETTING INTEROFFICE FACILITIES FROM AMERITECH IN
4 THE STATE OF ILLINOIS?

5 A. TO SOME EXTENT, YOU'RE USING FACILITIES
6 ALREADY. I MEAN, THIS COULD JUST BE A BILLING
7 QUESTION, IF YOU WANTED TO LEASE FACILITIES FROM US,
8 BECAUSE THOSE FACILITIES ARE ALREADY BEING USED.

9 WE'RE BRINGING THAT TRAFFIC TO YOU. IT'S
10 JUST A CALCULATION OF HOW MANY TRUNKS ARE WE
11 BRINGING TO YOU AND WHAT COULD THAT --

12 Q. SO YOU'RE SAYING THAT AMERITECH COULD JUST
13 FLIP A SWITCH AND TURN INTEROFFICE FACILITIES OVER
14 TO US; WE WOULDN'T HAVE TO WAIT AT ALL TO TRANSITION
15 TO A POINT OF INTERCONNECTION THROUGH LEASED
16 FACILITIES?

17 A. IT'S NOT EVEN A SWITCH. IT'S A BILLING
18 QUESTION.

19 Q. SO THEN THERE WOULD BE -- YOU'RE SAYING THE
20 INTERVALS WOULD BE ZERO; AMERITECH COULD COMMIT TO
21 PROVIDE THOSE FACILITIES DAY 1 --

22 A. THAT'S CORRECT.

1 Q. -- AFTER WE HIT THE TRIGGER FOR A POINT OF
2 INTERCONNECTION --
3 A. THAT'S CORRECT.
4 Q. WE NEVER HAVE TO STAND IN LINE?
5 A. THAT'S RIGHT.
6 Q. OKAY. AND THEN THE FINAL ISSUE IS THE
7 POSSIBILITY OF SETTING FIBER MEET TO ESTABLISH A
8 POINT OF INTERCONNECTION; THAT'S THE FINAL OPTION?
9 A. THAT'S CORRECT.
10 Q. HOW LONG DOES IT TAKE TO ESTABLISH A FIBER
11 MEET GENERALLY, DO YOU HAVE ANY IDEA?
12 A. I DON'T.
13 Q. NOW, SECTION 3.4.3 SEEMS TO SAY THAT THE
14 PARTIES HAVE TO DEVELOP AND AGREE ON THE
15 ARRANGEMENTS WITHIN 90 DAYS AND THEN THAT THE
16 ARRANGEMENTS WILL BE IMPLEMENTED, CORRECT?
17 A. CORRECT.
18 Q. SO IT'S AT LEAST 90 DAYS AND IT'S UNCLEAR
19 WHETHER THAT'S CALENDAR OR BUSINESS, RIGHT?
20 A. THAT'S CORRECT.
21 Q. AND IT COULD BE MORE THAN 90 DAYS TO
22 ACTUALLY IMPLEMENT THAT SINCE WE'RE ONLY DEVELOPING

1 AND AGREEING WITHIN THE 90?

2 A. YES.

3 Q. AND THEN ONCE THE POINT OF INTERCONNECTION
4 ARRANGEMENTS ARE IN PLACE, WE'VE DECIDED ON THE
5 TRAFFIC VOLUMES AND WE ARE -- AVOIDED OURSELVES OF
6 ONE OF THESE FOUR OPTIONS AND SET UP A POINT OF
7 ADDITIONAL INTERCONNECTION, AMERITECH AND LEVEL 3
8 ARE GOING TO HAVE TO PUT TRUNKS INTO PLACE TO FLOW
9 TO AND FROM THAT POINT OF INTERCONNECTION, CORRECT?

10 A. THAT'S CORRECT.

11 Q. WERE YOU HERE ON FRIDAY WHEN MS. GAVALEZ
12 TESTIFIED THAT AMERITECH GENERALLY LIMITS LEVEL 3 TO
13 OBTAINING SIX T-1S PER DAY?

14 A. YES.

15 Q. DO YOU KNOW IF AMERITECH EVER MISSES OR --
16 PROVIDING TRUNKS OR FAILS TO PROVIDE A FIRM ORDER
17 CONFIRMATION ON A TRUNK ORDER WHEN DUE?

18 A. I'M NOT FAMILIAR WITH ANY -- NO, I'M NOT. I
19 DON'T KNOW.

20 I THINK I MIGHT BE ABLE TO HELP OUT IN
21 THIS PARTICULAR AREA, THOUGH, AND WE WOULD BE
22 WILLING TO PUT IN OUR CONTRACT LANGUAGE THAT ANY

1 AMOUNT OF TRUNKS NEEDING TO BE CUT OVER IN ORDER TO
2 MOVE YOU FROM A SINGLE POI TO A MULTIPLE POI WOULD
3 NOT COUNT AGAINST ANY OTHER INTERVAL THAT WE SET UP
4 WITH YOU FOR REGULAR GROWTH OF TRUNK PROVISIONING.

5 Q. SO THEN YOU'RE SAYING THAT AMERITECH WOULD
6 BE WILLING TO DEDICATE THE -- DEDICATE ADDITIONAL
7 RESOURCES OUTSIDE THE SIX T-1S PER DAY SUGGESTED IN
8 THE TRANSITION PROCESS, AND THEN LEVEL 3 COULD
9 CONTINUE TO USE THE SIX T-1S PER DAY FOR FORECASTED
10 GROWTH?

11 A. EVEN DURING THAT TRANSITION PROCESS, THAT'S
12 CORRECT.

13 Q. HOW MANY -- SO THERE WOULD BE NO CAP ON THE
14 TRANSITION PROCESS OR WOULD THERE BE A CAP STILL?

15 A. AGAIN, THE TRANSITION PROCESS WOULD BE IN
16 TERMS OF THE GROWTH AND WORK THAT LEVEL 3 WAS DOING
17 WITH US ON ITS NETWORK THAT IT ALWAYS DOES WITH US
18 ON ITS NETWORK. THAT WOULD BE HELD SEPARATE. SO --

19 Q. BUT THERE WOULD BE NO -- THERE WOULD BE NO
20 CAP ON THERE OR WOULD THERE STILL BE A CAP ON THAT
21 TO SOME DEGREE?

22 A. THE EXISTING CAP WOULD STILL BE THERE.

1 Q. SO WE WOULD HAVE THE SIX T-1S ON THE
2 TRANSITION AND THEN ANOTHER SIX T-1S FOR GROWTH?

3 A. YOU'D HAVE THE SIX T-1S FOR GROWTH OR, YOU
4 KNOW, WHATEVER IT NEEDED TO BE, BECAUSE I DON'T MEAN
5 TO REPRESENT THAT CAP IS ABSOLUTE. IF THERE ARE
6 SPECIAL NEEDS OR WHATEVER, WE'RE FLEXIBLE AND WORK
7 WITH OUR CUSTOMERS TO INCREASE IT.

8 BUT WHATEVER ARRANGEMENTS ARE GOING ON
9 NOW WOULD NOT BE CHANGED BY YOUR NEEDING TO CUT OVER
10 TO MULTIPLE POIS.

11 ON THE CUT-OVER TO MULTIPLE POIS, WE
12 WOULDN'T LOOK AT SIX T-1S A DAY. WE WOULD LOOK AT
13 WHAT ARE THE MECHANICS OF MAKING THAT CUT. WHAT'S
14 THE EASIEST WAY TO DO IT.

15 IT COULD BE THAT TRUNKS WILL STAY IN,
16 EXISTING TRUNKS IN SOME PLACES, AND WE'LL JUST ROLL
17 THE FACILITIES TO NEW FACILITIES. IT'S SOMETHING
18 THAT COULD HAPPEN, YOU KNOW, WITH TEN DS-3S' WORTH
19 IN A DAY IF THE CUT-OVER CALLS FOR THAT.

20 Q. SO THERE WOULDN'T BE AN ABSOLUTE CAP.
21 YOU'RE JUST SAYING THERE WOULD BE A CAP DEPENDENT
22 UPON THE FACILITY ISSUES SORT OF A CASE-BY-CASE

1 BASIS, WHATEVER, PRACTICALLY SPEAKING, WOULD BE --

2 A. YEAH, IT'D BE A MATTER OF PRACTICALITIES.

3 IF YOU HAVE A TECHNICIAN DEDICATED TO IT

4 AND IF WE HAVE A TECHNICIAN, WHATEVER THEY CAN

5 ACCOMPLISH, THEY CAN ACCOMPLISH.

6 Q. BUT THERE WOULD BE NO ABSOLUTE CAP ON

7 THAT --

8 A. NOT FOR THE TRANSITION, NO.

9 Q. GIVEN HOW LEVEL 3 OPERATES TODAY IN

10 ILLINOIS, DO YOU HAPPEN TO KNOW HOW LONG A

11 TRANSITION MIGHT TAKE, HOW MANY TRUCKS ARE ISSUED?

12 AND THIS MAY GO INTO CONFIDENTIAL

13 INFORMATION. SO --

14 A. OH, YEAH. SPIT OUT OF A NUMBER OF TRUNKS OR

15 WHATEVER.

16 I DON'T KNOW. AND PART OF IT ISN'T JUST

17 THE SIZE OF THE NETWORK, BUT HOW THE FACILITIES ARE

18 DESIGNED AND WHAT IT WOULD TAKE TO ROLL THEM OVER TO

19 SOME OTHER KIND OF FACILITY. IT WOULD TAKE REALLY

20 AN IN-DEPTH LOOK.

21 Q. HOW LONG DOES IT TAKE AMERITECH TO TURN UP

22 TRUNKS CURRENTLY?

1 A. TO TURN UP TRUNKS CURRENTLY?

2 Q. YEAH.

3 A. THE SIX T-1S A DAY THAT WE'RE TALKING ABOUT
4 IS A LOOK THAT WE HAVE ON TRUNKS IN A SENSE.

5 WE'RE TALKING ABOUT 24 TRUNKS PER T-1.

6 SO 144 TRUNKS A DAY IS WHAT WE THINK OF DOING. THE
7 INTERVAL TO PUT IN THOSE 144 TRUNKS ON AN AUGMENT
8 BASIS, I BELIEVE, IS 20 DAYS.

9 Q. BUSINESS OR CALENDAR?

10 A. LET'S DO THAT AS CALENDAR DAYS.

11 Q. SO LEVEL 3 WILL BE ENTITLED THEN UNDER THIS
12 NEW CONTRACT TO GET ITS TRUNKS AT LEAST ON THE --
13 YOU SAID AUGMENT ONLY, SO THE GROWTH STAGE, YOU CAN
14 GET THOSE WITHIN A 20-CALENDAR-DAY PERIOD, AND THEN
15 AMERITECH'S -- THAT'S AMERITECH'S UNDERSTANDING --

16 A. THAT'S CORRECT.

17 Q. -- THAT YOU WOULD BE WILLING TO COMMIT TO?

18 I WANT TO GO BACK TO THE QUESTION WE
19 TALKED ABOUT A LITTLE BIT EARLIER ABOUT HOW MANY
20 LINES SIT BEHIND AN AMERITECH TANDEM AND MAKE SURE I
21 UNDERSTAND IT.

22 YOU SAID SOMEWHERE IN THE NEIGHBORHOOD OF

1 200,000, 300,000 LINES MAY SIT IN A TANDEM SERVING
2 AN AREA. AND I UNDERSTAND THAT WAS JUST OFF THE TOP
3 THE HEAD ANALYSIS, BUT IS THAT RIGHT?

4 A. THAT'S RIGHT.

5 Q. AND SO YOU'RE OFFERING TO MAKE -- YOU'RE
6 OFFERING TO REQUIRE ESSENTIALLY LEVEL 3 TO ESTABLISH
7 AN ADDITIONAL POINT OF INTERCONNECTION WHERE THERE'S
8 672 LINES -- SIMULTANEOUS LINES COMING OUT OF THE --
9 THAT TANDEM SERVING AREA, CORRECT?

10 A. WORTH OF TRAFFIC.

11 THE 672 SIMULTANEOUS CONVERSATIONS DURING
12 A BUSY -- WELL, DURING A BUSY MOMENT, WE'RE TALKING
13 ABOUT SIMULTANEOUS CONVERSATIONS.

14 TO THE EXTENT THAT A TYPICAL INTERNET
15 CONVERSATION IS A HALF HOUR, WE'D BE TALKING ABOUT
16 TWICE THAT, 670. 1200, 1300. OKAY. 1400, SAY,
17 CONVERSATIONS DURING THAT BUSY HOUR FROM BEHIND THAT
18 TANDEM.

19 Q. BUT JUST TO BE CLEAR THEN, WE'RE TALKING
20 ABOUT -- AND I JUST DID SOME QUICK MATH, AND YOU CAN
21 CORRECT ME ON THIS IF I'M WRONG, BUT WE'RE TALKING
22 ABOUT MAYBE .03 PERCENT OF THE LINES BEHIND THE

1 TANDEM, ONCE THOSE ARE SERVED BY -- OR TRAFFIC
2 FLOWING TO OR FROM THOSE FOR A LEVEL 3 CUSTOMER,
3 THAT'S THE POINT AT WHICH LEVEL 3 WOULD HAVE TO
4 ESTABLISH AN ADDITIONAL POINT OF INTERCONNECTION?

5 MR. FRIEDMAN: I'M NOT SURE. ARE YOU ASKING THE
6 WITNESS TO CONFIRM YOUR CALCULATION?

7 MR. ROMANO: YEAH, BASICALLY. I WANT TO KNOW
8 IF -- IT'S 672 OVER LET'S SAY -- LET'S SAY THE LOW
9 BALL FIGURE HE GAVE OF 200,000.

10 MR. FRIEDMAN: I THINK THE TESTIMONY SUGGESTS A
11 DIFFERENT ANSWER, BUT WE'LL SEE.

12 THE WITNESS: IF WE'RE SAYING 300,000 LINES --
13 BY MR. ROMANO:

14 Q. 200,000 IS WHAT I JUST -- A BALLPARK FIGURE
15 TO MAKE IT EVEN MORE GENEROUS TO AMERITECH.

16 A. OKAY. LET ME USE 280,000 JUST BECAUSE --
17 BECAUSE I'M GOING TO USE 1400 CONVERSATIONS DURING
18 THE BUSY HOUR.

19 AND SO WE'RE TALKING ABOUT 1400 DIVIDED
20 BY 280,000. ONE OVER 200, SO I COME UP WITH ONE
21 HALF OF ONE PERCENT.

22 Q. OKAY. SO I SAID .3, BUT WHERE DID YOU GET

1 THE 1400?

2 A. I DOUBLED THE 672. I FIGURED THAT'S ABOUT
3 700. BECAUSE A CONVERSATION'S ONLY A HALF HOUR LONG
4 IN AN INTERNET CONVERSATION. SO YOU CAN PUT TWO OF
5 THEM IN AN HOUR ON THE SAME LINE.

6 Q. OKAY. BUT YOU DIDN'T DOUBLE -- YOU DIDN'T
7 DOUBLE THE 200,000 LINES. YOU JUST DOUBLED THE
8 NUMERATOR, BUT NOT THE DENOMINATOR.

9 THERE COULD BE LONG CALLS ON THE
10 AMERITECH 200,000 LINES, COULDN'T THERE, SUCH THAT
11 THERE COULD BE TWO CONVERSATIONS ON SOME OF THOSE
12 AMERITECH LINES AS WELL OR EVEN MORE?

13 A. I LOVE MATH.

14 JUDGE ZABAN: ACTUALLY, I THINK AT THIS POINT,
15 MR. ROMANO, IT'S ARGUMENT.

16 THE NUMBER OF POTENTIAL CUSTOMERS IS
17 STATIC, OKAY? THE NUMBER OF PEOPLE WHO USE THE
18 LINES IS FLEXIBLE. THAT'S WHAT THE WITNESS SAID.

19 BY MR. ROMANO:

20 Q. OKAY. SO IT'S .5 PERCENT THEN?

21 A. YES.

22 Q. IS WHAT THE WITNESS CAME UP WITH?

1 JUDGE MORAN: MIGHT I REMIND YOU THAT ONLY YOU
2 ENJOY MATH SO MUCH.

3 MR. ROMANO: THANK YOU, YOUR HONORS, FOR MOVING
4 US OFF FROM THE MATH.

5 BY MR. ROMANO:

6 Q. LET'S GO TO A DIFFERENT ISSUE NOW, BLOCKING,
7 AND I JUST HAD A COUPLE OF QUESTIONS ON THIS.

8 YOU SAID EARLIER THE STANDARD INTERVALS
9 FOR PROVISIONING TRUNKS IN RESPONSE TO A CLE C
10 REQUEST WERE ABOUT 20 DAYS, RIGHT?

11 A. THAT'S RIGHT.

12 Q. AND THOSE ARE THE STANDARD INTERVALS,
13 CORRECT?

14 THAT'S FOR -- HOW MANY TRUNKS WOULD WE
15 GET IN A 20-DAY PERIOD?

16 A. 144.

17 Q. SO AMERITECH DOESN'T HAVE A CAP, FOR
18 EXAMPLE, WHERE 96 TRUNKS GOES INTO A SPECIAL ORDER
19 PROCESS WHERE IT TAKES LONGER?

20 A. THE CAP FOR THAT IS THAT SAME SIX T-1S. AS
21 LONG AS IT'S SIX T-1S, IT'S A STANDARD INTERVAL.

22 Q. SO IF -- IF THERE ARE BLOCKING OCCURRING

1 NEEDED (SIC) FOR MORE THAN, SAY, 144 TRUNKS TO
2 AUGMENT OR TO REMEDY THE BLOCKING --

3 A. WE WOULD WORK FASTER.

4 Q. WHERE DOES THE CONTRACT PROVIDE FOR THAT?
5 HOW DO I KNOW THAT FOR CERTAIN, IF I'M LEVEL 3, ONCE
6 THE CONTRACT'S BEEN SIGNED AND ALL THE LAWYERS GO
7 AWAY?

8 A. I CAN'T TELL YOU THAT IT'S IN THE CONTRACT.
9 IF YOU'D BE MORE COMFORTABLE PLACING IT IN THE
10 CONTRACT --

11 Q. I'LL LEAVE THAT TO YOUR ATTORNEY THEN TO
12 MAKE COMMITMENTS FOR YOU.

13 A. IT CAN PROBABLY BE DONE, BUT I WOULD REMIND
14 YOU THAT THERE ARE END USERS AS WELL AS YOURS, THE
15 ONES PLACING THE CALL, AND WE HEAR FROM THEM ALSO IF
16 THEY GET BLOCKED. UNLESS WE BLOCK THEM REALLY GOOD.
17 NO, I'M SORRY.

18 Q. HAVE TO GO TO A PAY PHONE.

19 OKAY. NOW, AGAIN, YOU HAVE SIX T-1S PER
20 DAY THAT YOU LIMIT TO OUTSIDE OF ANY TRANSITIONAL
21 POINT OF INTERCONNECTION ISSUES IS THE SIX T-1 PER
22 DAY LIMIT.

1 SO IF WE HAVE TO USE THE SIX T -1 PER DAY
2 SORT OF CAP WE HAVE, WE HAVE TO USE THE NUMBER OF
3 TRUNKS WITHIN THAT FOR BLOCKING, THAT PREVENTS US
4 FROM ORDERING TRUNKS FOR, SAY, SERVING NEW
5 CUSTOMERS, RIGHT?

6 A. THE BLOCKING WOULD BE -- WELL, OKAY. THAT'S
7 RIGHT. THAT'S RIGHT.

8 Q. UTILIZATION.

9 AND ON THE -- LET'S SEE, PAGE 23 OF YOUR
10 TESTIMONY, I BELIEVE, YOU ADDRESS THE DISPUTE
11 BETWEEN THE PARTIES OVER THE LEVEL OF UTILIZATION
12 FOR AUGMENTATION, AND YOU STATE THERE THAT AMERITECH
13 ILLINOIS USES 75 PERCENT AS ITS CLEC STANDARD.

14 A. THAT'S CORRECT.

15 Q. WHAT LEVEL OF UTILIZATION DOES AMERITECH USE
16 FOR ITS OWN TRUNK AUGMENTATION?

17 A. IT LOOKS MORE LIKE 85 PERCENT.

18 Q. DO YOU HAVE ANY DOCUMENTATION SUPPORTING
19 THAT OR COULD I ASK A --

20 A. I'M THINKING THERE WAS A REQUEST FOR
21 INFORMATION THAT YOU GAVE US THAT SENT THAT SAME
22 ANSWER BACK TO YOU, THAT 85 PERCENT.

1 Q. COULD YOU PERHAPS --

2 A. I DON'T KNOW IF I HAVE IT.

3 Q. DO YOU HAPPEN TO KNOW IF THAT WAS AN ANSWER
4 YOU PREPARED?

5 A. I DIDN'T PREPARE IT.

6 I READ IT AND IT CORRESPONDED TO THE KIND
7 OF INFORMAL DISCUSSIONS I HAD HAD AND SO I WAS REAL
8 COMFORTABLE WITH IT.

9 AND I CAN'T REMEMBER IF I --

10 Q. OKAY. WELL, THAT'S FINE. I'LL --

11 A. I'M SORRY.

12 Q. I'LL TAKE THE 85 PERCENT FIGURE. LET'S JUST
13 SAY IT'S 85 PERCENT.

14 NOW, AMERITECH'S BEEN IN BUSINESS FOR A
15 HUNDRED YEARS OR SO, RIGHT?

16 A. THAT'S CORRECT.

17 Q. SO YOU PRETTY MUCH KNOW YOUR CUSTOMER BASE.

18 YOU KNOW, YOU MIGHT HAVE SOME LOSS, SOME
19 GROWTH, BUT IT'S A FAIRLY STABLE NUMBER THAT, YOU
20 KNOW, MAYBE INCREASES A LITTLE BIT OVER TIME, BUT
21 IT'S A FAIRLY STABLE NUMBER. YOU KNOW, THE
22 PERCENTAGE OF GROWTH IS RELATIVELY SMALL?

1 A. I WAS LISTENING TO DR. HARRIS FRIDAY AND I
2 WAS FASCINATED WITH THE KIND OF EXPLOSION THAT WE'VE
3 HAD IN INTERNET TRAFFIC, AND THAT CERTAINLY HAS
4 BECOME, I GUESS, PROBABLY A DIFFERENT LEVEL OF USAGE
5 AND A DIFFERENT KIND OF USAGE AND IT MIGHT BE IN
6 ADDITION TO WHAT WE'VE HAD FOR A HUNDRED YEARS.

7 Q. BUT EVEN ON YOUR OWN NETWORK, TOO?

8 A. YEAH. SURE. SURE. BUT I WILL TELL YOU,
9 THAT, YES, I AGREE THAT THERE'S BEEN -- THERE IS
10 SOME STABILITY THAT COMES FROM THE SIZE.

11 Q. SO IT'S A LITTLE BIT EASIER FOR AMERITECH TO
12 KNOW WHEN IT NEEDS TO AUGMENT, BECAUSE, YOU KNOW, AS
13 TRUNK USAGE GETS UP TO 85 PERCENT IN A GIVEN AREA,
14 IT CAN TELL AND, THEREFORE -- IT CAN TELL THAT IT'S
15 APPROACHING 100 AND, THEREFORE, PROVISION TRUNKS TO
16 ADDRESS THAT?

17 A. OKAY. YEAH.

18 MR. FRIEDMAN: OFF THE RECORD.

19 (DISCUSSION OFF THE RECORD.)

20 BY MR. ROMANO:

21 Q. SO WORKING WITHIN THE 75 PERCENT
22 UTILIZATION THAT YOU PROPOSE FOR THE CLECS, IF WE'RE

1 LIMITED TO SIX T-1S PER DAY, ISN'T IT POSSIBLE THAT
2 A 75-PERCENT CLEC COULD BE FACED WITH A BLOCKING
3 SITUATION AND NOT BE ABLE TO REMEDY IT WITH ITS SIX
4 T-1 CAP WITHIN THE TIME THAT THOSE TRUNKS ARE
5 PROVISIONED?

6 A. AND SO THAT CAP WOULD BE FLEXIBLE.

7 WE CERTAINLY WOULDN'T WANT TO HOLD YOU TO
8 AN ARBITRARY SIX T-1 CAP IF THERE WERE, YOU KNOW,
9 REORDER TONES AND DISSATISFIED PEOPLE UNABLE TO CALL
10 WHERE THEY NEEDED TO CALL.

11 Q. SO I HATE PUTTING YOU IN A POSITION, BUT NOW
12 YOU'RE SAYING SOMETHING DIFFERENT THAN THE
13 CONTRACT -- IS IN THE CONTRACT.

14 ARE YOU SAYING THAT AMERITECH IS WILLING
15 TO SAY IN THE CONTRACT THAT THE SIX T-1 PER DAY CAP
16 WILL NOT APPLY TO BLOCKING SITUATIONS AS WELL AS
17 SITUATIONS WHERE WE HAVE TO TRANSITION A POINT OF
18 INTERCONNECTION?

19 A. I DON'T SEE THE SIX T-1 CAP BEING IN THE
20 CONTRACT TO BEGIN WITH. SO I'M INTENDING REALLY --

21 Q. BUT YOU ACKNOWLEDGE IT'S OUT THERE?

22 A. I ACKNOWLEDGE IT'S OUT THERE, ABSOLUTELY.

1 Q. AND WE HAVE TO WORK WITH IT WHEN WE'RE
2 TRYING TO DO PLANNING PROCESS, WHEN WE'RE TRYING TO
3 FORMULATE BLOCKING RELIEF, ET CETERA?

4 A. AND I FIRMLY WANT YOU TO HOLD THAT SEPARATE
5 IN THE POINT OF INTERCONNECTION ISSUE BECAUSE I
6 DON'T MEAN AT ALL FOR THAT TO INTERFERE WITH YOUR
7 WILLINGNESS TO ESTABLISH NEW POINTS OF
8 INTERCONNECTION.

9 Q. BUT IF YOU'RE SAYING THAT TODAY AND IT'S NOT
10 IN THE CONTRACT -- IF AMERITECH DOESN'T PUT IT IN
11 THE CONTRACT, WHAT'S TO PREVENT AMERITECH FROM
12 ISSUING A NEW LETTER, ACCESSIBLE LETTER, YOU KNOW,
13 TOMORROW A WEEK OR THREE WEEKS FROM NOW THAT SAYS,
14 YOU KNOW WHAT, THE SIX T-1S PER DAY WILL APPLY TO
15 THE BLOCKING SITUATIONS AND WILL APPLY TO A
16 TRANSITION POINT OF INTERCONNECTION?

17 A. ON THE POINTS OF INTERCONNECTION, WE'LL PUT
18 THAT IN THE CONTRACT. THAT'S NOT A PROBLEM.

19 ON THE BLOCKING SITUATION, THIS PROBABLY
20 IS A LEGAL CONTRACT KIND OF DISCUSSION, AND I GUESS
21 I DON'T REALLY MEAN TO HAVE IT. I CAN'T THINK THAT
22 QUICKLY ON MY FEET.

1 Q. THAT'S FINE.

2 A. BUT I THINK WHERE YOU'RE GOING IS GIVEN THAT
3 WE HAVE A CAP ON HOW MUCH WE CAN DO AND HOLDING AN
4 ARBITRARY STANDARD ASIDE, LET'S JUST SAY THERE IS A
5 LIMIT TO WHAT WE CAN DO PER DAY FOR ANY INDIVIDUAL
6 CLEC.

7 THAT IF YOUR TRAFFIC WERE ALL OF A SUDDEN
8 TO DOUBLE TOMORROW, COULD WE MEET IT WITHIN TWO
9 DAYS? NO, WE COULDN'T. THERE ARE PRACTICAL
10 LIMITATIONS FOR WHAT CAN BE DONE, AND THAT'S WHAT WE
11 MEAN TO REFLECT, REALLY, WITH ANY KIND OF LIMIT WE
12 PUT THAT IN ACCESSIBLE LETTERS.

13 THERE ARE PRACTICAL LIMITATIONS. FOR
14 YOUR PLANNING PURPOSES AND OURS, LET'S THINK ABOUT
15 QUANTIFYING WHAT THOSE LIMITATIONS MIGHT BE SO THAT
16 WE CAN INTERACT WITH EACH OTHER ON A MORE UNIFORM
17 KIND OF BASIS, OKAY?

18 LET'S SAY THAT THAT PRACTICAL LIMITATION
19 IN AMERITECH HAS REALLY BEEN FOUND TO BE SIX T-1S.
20 FOR AN EMERGENCY, FOR A HUGE AMOUNT OF TRAFFIC ALL
21 OF A SUDDEN THAT'S GOT TO BE DEALT WITH ON A
22 NONCONTRACT BASIS, WE REALLY WANT TO DEAL WITH IT.

1 ON A CONTRACT BASIS, WE DON'T KNOW WHAT THOSE
2 PRACTICAL LIMITATIONS ARE, ANYWAY, NECESSARILY TO
3 THE POINT THAT WE WANT TO PUT THEM IN A THREE-YEAR
4 CONTRACT.

5 I CAN'T SEE IT AS BEING A CONTRACT KIND
6 OF RESOLUTION, I GUESS.

7 Q. YOU, ON PAGE 24 OF YOUR TESTIMONY, ARE
8 SPEAKING A BIT ABOUT LEVEL 3'S PROPOSAL AT A
9 50-PERCENT UTILIZATION MARK.

10 AND YOU WOULD AGREE THAT THE 50-PERCENT
11 UTILIZATION STANDARD IS GOING TO INCLUDE TRUNKS THAT
12 ARE NEAR ZERO PERCENT TO TRUNKS THAT ARE -- HAVE
13 BEEN IN SERVICE FOR A WHILE AND ARE NEAR 95 OR A
14 HUNDRED PERCENT, RIGHT?

15 A. I'M SORRY.

16 Q. IF WE HAVE A 50-PERCENT UTILIZATION LEVEL ON
17 A TRUNK GROUP --

18 A. THAT TRUNK GROUP.

19 Q. -- THAT'S GOING TO INCLUDE TRUNKS THAT ARE
20 IN THE ZERO PERCENT AND TRUNKS THAT COULD BE IN THE
21 HUNDRED PERCENT, RIGHT?

22 A. ACTUALLY NOT. ACTUALLY, ANY TRUNKS IN A

1 TRUNK GROUP GET USED EVENLY. IT DOESN'T MATTER IF
2 THEY'RE NEW TRUNKS OR OLD TRUNKS.

3 Q. BUT ON A ROUTE -- FOR EXAMPLE, LET'S SAY WE
4 HAVE SEVERAL TRUNK GROUPS ON A ROUTE, IT'S GOING TO
5 INCLUDE DIFFERENT PERCENTAGES WITHIN THOSE VARIOUS
6 TRUNK GROUPS, RIGHT?

7 A. WE'RE GOING TO END UP BACK IN MATH, I THINK.

8 MAYBE I COULD PUT A QUICK DIAGRAM ON THE
9 BOARD. AND THIS ISN'T WHERE I EXPECTED TO DO IT,
10 BUT SOMEBODY ELSE ALREADY DREW MY DIAGRAM THE OTHER
11 DAY.

12 JUDGE MORAN: I THINK THAT WOULD BE FINE, IF YOU
13 DON'T HAVE ANY OBJECTION, MR. ROMANO?

14 THE WITNESS: THIS MIGHT BE HELPFUL FOR OTHER
15 REASONS, TOO, BUT WHERE WOULD BE A GOOD PLACE FOR
16 THAT, ABOUT LIKE SO?

17 JUDGE MORAN: THAT'LL BE FINE.

18 (DISCUSSION OFF THE RECORD.)

19 THE WITNESS: ALL RIGHT.

20 JUDGE MORAN: AND WHY DON'T WE MARK IT FOR
21 IDENTIFICATION.

22 THE WITNESS: I'M SORRY.

1 JUDGE MORAN: WE'D NEED TO MARK IT ON THE
2 IDENTIFICATION.

3 JUDGE ZABAN: PUT ON THE BOTTOM, CROSS NO. 1.

4 THE WITNESS: OKAY. THIS WILL BE LEVEL 3, YOUR
5 SWITCH AND YOUR ISP CUSTOMER.

6 BY MR. ROMANO:

7 Q. OKAY.

8 A. THIS'LL BE AN AMERITECH END OFFICE AND AN
9 AMERITECH TANDEM.

10 WE HAVE -- AS LONG AS WE HAVE MORE THAN
11 24 TRUNKS WORTH OF STABLE TRAFFIC, WE HAVE A DIRECT
12 END OFFICE GROUP TO YOU.

13 Q. FOR A THREE-MONTH PERIOD?

14 A. YES -- THAT'S CORRECT. THAT'S CORRECT.

15 OKAY. AND IT MIGHT HAVE 188 TRUNKS IN IT
16 OR WHATEVER. WE WOULD WANT -- OH, OKAY. IF -- IF
17 TRAFFIC IS OFFERED TO THIS TRUNK GROUP AND IT'S
18 BUSY, IT OVERFLOWS HERE THROUGH THE TANDEM. AND I
19 SHOULD -- SOMETIMES WE SHOULD SHOW THIS AS A DOTTED
20 LINE OR WHATEVER.

21 THE IDEA IS THAT THIS IS A COMMON
22 TRANSPORT TRUNK THAT WE PUT A LOT OF -- WE OVERFLOW

1 TO A COMMON TRANSPORT TRUNK GROUP, AN OVERFLOW
2 GROUP. AND IT'S GOT A HUGE NUMBER OF TRUNKS IN IT
3 AND WE MEAN FOR IT TO PRACTICALLY NEVER BE BUSY,
4 OKAY?

5 AND FROM THE TANDEM TO YOU, THERE'S
6 ANOTHER TRUNK GROUP DEDICATED TO YOU.

7 THIS IS THE ONE, THE TANDEM GROUP, THAT
8 IF IT OVERFLOWS, OUR CUSTOMERS GET A REORDER AND
9 YOU'RE UNHAPPY AND WE ARE UNHAPPY, OKAY?

10 THIS TRUNK GROUP WE MEAN TO HAVE
11 OVERFLOW. DURING THE BUSY HOUR, IT NEEDS TO BE
12 UTILIZED AT A HUNDRED PERCENT IN ORDER TO BE
13 UTILIZED THE MOST EFFICIENTLY. BUT IT'S NOT A
14 PROBLEM IF TRAFFIC GOES THIS WAY TO YOU; YOU'RE
15 HAPPY. YOU STILL GET IT. SO THESE REALLY ARE THE
16 TRUNK GROUPS THAT WE'RE TALKING ABOUT.

17 Q. LET ME STOP YOU THERE. THAT NEEDS TO BE
18 USED -- THAT NEEDS TO BE USED -- YOU INTEND THAT TO
19 BE USED AT A HUNDRED PERCENT IN ORDER FOR IT TO BE
20 USED EFFICIENTLY.

21 ISN'T THERE THE PROBLEM ALSO WITH TRAFFIC
22 GROWTH, THOUGH, AND IF TRAFFIC RAMPS UP ON THAT

1 AND -- WE'RE EXPECTING TRAFFIC TO RAMP UP ON THAT
2 TOP LINE DIRECT END OFFICE GROUP, SAY, TOMORROW OR
3 THREE DAYS DOWN THE LINE AND YOU WANT IT TO BE USED
4 AT A HUNDRED PERCENT CAPACITY AND YOU DON'T GET
5 TRUNKS IN PLACE FOR 20 DAYS, WE'VE GOT SEVERAL DAYS
6 OF BLOCKING BEFORE WE -- BEFORE WE NEED TO DO IT OR
7 WE COULD HAVE OVERFLOW TO THE TANDEM?

8 A. THIS IS WHERE WE WOULD PUT IN OUR -- WHAT'S
9 THE WORD -- I'M THINKING STUFFING; ISN'T THAT FUNNY?
10 THIS IS WHERE WE PUT IN OUR SLACK. THIS IS WHERE WE
11 WOULD BUILD IN THE ROOM FOR GROWTH.

12 WE WANT THIS FULLY UTILIZED, BUT WE WANT
13 IT AS NEARLY 100 PERCENT AS POSSIBLE; THAT IS, WE
14 DON'T WANT IT UNDER-UTILIZED BECAUSE THEN IT'S NOT
15 BEING USED, BUT TO THE POINT THAT WE HAVE SPARE ROOM
16 FOR GROWTH -- THAT WOULD BE A GOOD WORD. SPARE FOR
17 GROWTH. WE WANT IT BETWEEN THE TANDEM HERE.

18 Q. OKAY. SO THAT ONE, YOU DO NEED TO HAVE A
19 LOWER UTILIZATION LEVEL THEN IS WHAT YOU'RE SAYING
20 TO -- SO THERE NEEDS TO BE A LOWER LEVEL BETWEEN THE
21 LEVEL 3 SWITCH AND THE AMERITECH TANDEM SWITCH IN
22 ORDER TO ADDRESS THAT?

1 A. YES. IT'S THE TANDEM ONE THAT WE'RE REALLY
2 TALKING ABOUT THE 75-PERCENT UTILIZATION ON. I
3 DON'T THINK ANDREA WOULD HAVE A PROBLEM WITH THIS
4 BEING A HUNDRED PERCENT UTILIZED UP THERE, YOUR
5 NETWORK PERSON. IT'S REALLY THE TANDEM ONE THAT HAS
6 A 75-PERCENT UTILIZATION BEFORE WE TRIGGER MORE
7 TRUNKS.

8 Q. WELL, LET MEET ASK YOU THIS THEN:

9 IF WE ARE AT 75 PERCENT AND THE
10 TRAFFIC -- WE GET A SPIKE IN TRAFFIC SUCH THAT WE GO
11 UP TO, SAY, 95 PERCENT AND START SEEING BLOCKING IN,
12 SAY, OVER A FIVE- OR SIX-DAY PERIOD, WE WOULD
13 RECOGNIZE THAT. WE PUT IN AN ORDER. WE'RE SUDDENLY
14 FACING -- 20 DAYS, ALTHOUGH YOU SAID YOU MIGHT BE
15 WILLING TO WORK WITH US. BUT ON THIS 75 PERCENT
16 GROUP, WE WOULD NOT SEE BLOCKING RELIEF THERE EITHER
17 FOR A WEEK OR TWO. AND THEN WE'RE BLOCKING AT BOTH
18 VENUES, AREN'T WE, THE DIRECT END OFFICE GROUP AND
19 ALSO THE GROUP GOING BETWEEN THE AMERITECH TANDEM
20 AND OUR SWITCH?

21 A. REALLY, THE ONLY PLACE YOU EVER BLOCK IS TO
22 THAT TANDEM GROUP, BUT YOU NEVER BLOCK IT FROM

1 ANYBODY OUT OF THE TANDEM BECAUSE THERE IS NOBODY ON
2 OF THE TANDEM. IT'S ALWAYS SUBTENDING END OFFICES.

3 LET'S SAY WE'VE GOT 12 END OFFICES OFF OF
4 THIS TANDEM, OKAY? WE HAVE END OFFICE GROUPS
5 DIRECTLY FROM EACH ONE OF THOSE. THEY ALL OVERFLOW
6 TO THIS TANDEM GROUP.

7 Q. WE DON'T HAVE DIRECT END OFFICE GROUPS FOR
8 ALL THOSE END OFFICES, THOUGH, RIGHT?

9 A. YEAH.

10 Q. IT'S ONLY -- TRUNKS. SO WE MAY HAVE ALL
11 THOSE END OFFICES GOING TO THE TANDEM AS WELL?

12 A. THAT'S CORRECT. WE WOULD DRAW IT, TOO, THAT
13 IT ONLY GOES TO THE TANDEM.

14 Q. AND HOW MANY END OFFICES ARE THERE,
15 TYPICALLY, OFF AN AMERITECH TANDEM?

16 A. WE HAVE 158 END OFFICES AND SEVEN TANDEMS.
17 WE'LL STOP THAT RIGHT THERE.

18 JUDGE ZABAN: NO, LET ME ASK YOU A QUESTION.

19 THE WITNESS: YEAH.

20 JUDGE ZABAN: IS THE 75 FIGURE -- ARE YOU
21 ASSUMING THAT THAT'S AN INDICATION THAT THE -- THE
22 DIRECT LINE BETWEEN THE LEVEL 3 SWITCH AND THE END

1 OFFICE IS TOO SMALL; IS THAT CORRECT?

2 BUT WHEN YOU REACH 75 ON THAT TANDEM
3 LINE, THAT MEANS THAT YOU ACTUALLY HAVE TOO MUCH
4 OVERFLOW.

5 THE WITNESS: THAT'S CORRECT. AND WHAT WE WANT
6 TO DO IS, REALLY, AS WE GET TOO MUCH OVERFLOW HERE
7 AND INSTEAD OF BEING 75 PERCENT, IT MIGHT LOOK LIKE
8 85 PERCENT OR WHATEVER, WE TRY TO IDENTIFY WHERE
9 THAT TRAFFIC'S REALLY COMING FROM AND HAVE YOU PUT
10 IN THE NEW TRUNKS OUT HERE SO THAT WE DON'T USE
11 THOSE TANDEM TERMINATIONS.

12 BY MR. ROMANO:

13 Q. TO THE EXTENT THERE'S A STABLE THREE -MONTH
14 PERIOD?

15 A. THAT'S CORRECT. THAT'S CORRECT.

16 SO WE LOOK AT A GROUP HERE THAT'S MAYBE
17 110 PERCENT UTILIZED. IT HAS MORE OVERFLOW THAN WE
18 LIKE TO SEE. WE WANT TO GET IT BACK DOWN TO 95
19 PERCENT OR A HUNDRED PERCENT UTILIZED HERE, AND
20 THAT'S -- THE SIGNAL FOR THAT IS 75 PERCENT
21 UTILIZATION OF THE TANDEM.

22 JUDGE ZABAN: SO THE TANDEM IS ACTUALLY A

1 WARNING SIGN THAT ONE OF YOUR LINES IS ACTUALLY
2 NOT -- ISN'T BIG ENOUGH TO CARRY ALL THE TRAFFIC
3 IT'S SUPPOSED TO BE HANDLING?

4 THE WITNESS: THAT'S CORRECT.

5 BY MR. ROMANO:

6 Q. LET ME ASK YOU ABOUT THE 75 PERCENT A LITTLE
7 MORE.

8 THAT GOES NOT ONLY TO, AS THE HEARING
9 EXAMINER SAID, WHEN SORT OF YOU KNOW THAT ADDITIONAL
10 TRAFFIC OR ADDITIONAL CAPACITY MIGHT BE NEEDED, BUT
11 IT ALSO GOES TO WHEN THEY TAKE AWAY TRUNKS, CORRECT,
12 DOWNSIZING?

13 A. CORRECT.

14 Q. COULDN'T WE BE IN A CONSTANT FLIP-OVER
15 SITUATION WHERE WE SUDDENLY HIT 75 PERCENT AND
16 THEN HAVE TO AUGMENT. AND THEN AS SOON AS WE
17 AUGMENT, WE'RE BELOW 75 PERCENT, SO WE HAVE TO TAKE
18 AWAY? HOW DOES THAT WORK IF WE HAVE A SINGLE FIGURE
19 FOR BOTH AUGMENT AND DOWNSIZE?

20 A. I AM TOLD THAT THIS WORKS BECAUSE OF
21 MATHEMATICS AND CHANGES IN THE NUMERATORS AND
22 DENOMINATORS.

1 MR. ROMANO: I'M SORRY ABOUT THE MATH QUESTIONS.
2 THE WITNESS: AND I'VE NOT WORKED IT OUT ON AN
3 INDIVIDUAL BASIS, BUT IT GOES SOMETHING LIKE THIS:
4 WHEN THIS THING HITS 75 PERCENT ON THE
5 UPWARD SIDE AND YOU NEED MORE TRUNKS, YOU ADD THEM
6 IN OUT HERE, OKAY? AT THAT POINT, THE LEVEL OF
7 TRAFFIC IN THE TANDEM IS DROPPED AND THE LEVEL OF
8 UTILIZATION GOES UP BECAUSE THERE'S LESS TRAFFIC --
9 IS THAT RIGHT? LESS TRAFFIC. NO, LEVEL OF
10 UTILIZATION GOES DOWN.
11 BY MR. ROMANO:
12 Q. YEAH.
13 A. IT COULD LOOK TO US, IF THAT GETS STABLE
14 ENOUGH, THAT WE COULD TAKE OUT SOME TANDEM TRUNKS.
15 THEN WE'RE HAPPY BECAUSE WE'VE SAVED THE TANDEM FOR
16 OTHER OCCASIONS. THAT TANDEM STUFF TENDS TO BE MORE
17 EXPENSE.
18 AND SO IT MAY BE SORT OF A PROCESS OF
19 FIGURING OUT WHAT OUR END OFFICES ARE GENERATING AND
20 TO THE LARGEST EXTENT POSSIBLE TINKERING AND
21 TAILORING THIS THING SO WE HAVE THE FEWEST TANDEM
22 TRUNKS WE CAN AND THE MOST END OFFICE TRUNKS WE CAN.

1 THERE GETS A POINT WHEN IT SEEMS TO REACH
2 ENOUGH STABILITY THAT WE'RE HAPPY.

3 MR. FRIEDMAN: TO REACH A?

4 THE WITNESS: ENOUGH STABILITY THAT WE'RE FAIRLY
5 HAPPY WITH IT.

6 BUT IT'S NOT A QUESTION OF TAKING IN OR
7 PUTTING OUT TRUNKS HERE. WE'RE PUTTING THEM IN
8 HERE. WE'RE TAKING THEM OUT HERE. WE'RE TAILORING
9 THAT UNTIL WE HAVE SOME KIND OF STABILITY.

10 BY MR. ROMANO:

11 Q. AND THIS IS MEASURED DURING THE BUSIEST HOUR
12 OF THE --

13 A. YEAH, BUSIEST HOUR OF THE AVERAGE DAY OF THE
14 BUSIEST MONTH.

15 JUDGE ZABAN: AND OVER WHAT PERIOD OF TIME?

16 THE WITNESS: WE MEASURE IT FOR A ROLLING MONTH,
17 A 20-DAY AVERAGE AS WE LOOK AT THAT.

18 BY MR. ROMANO:

19 Q. SO -- BUT LET MET GET THIS STRAIGHT THEN.

20 BY THE TIME YOU RECOGNIZE THERE'S A 75
21 PERCENT UTILIZATION BY LOOKING AT IT OVER THE PAST
22 MONTH, IT COULD VERY WELL HAVE RAMPED UP TO, I MEAN,

1 85 PERCENT TOWARDS THE TAIL END OF THAT OR EVEN 90?

2 A. SO WE MIGHT BE IN THE PROCESS, SAY, OF
3 ADDING MORE TRUNKS OUT HERE.

4 Q. BUT WE HAVE TO START AT THE BEGINNING --
5 WE'D HAVE TO START AT THE BEGINNING WHEN WE MAY BE
6 BELOW 75 IN ORDER TO GET THOSE IN PLACE BY THE TIME
7 IT'S 95, IF THAT'S AVERAGE THE -- 75.

8 I MEAN, YOU'RE LOOKING AT HISTORIC AL
9 DATA. THERE'S A CHANCE THAT YOU MAY HAVE ALREADY
10 RUN PAST THAT DATA BY THE TIME YOU GET THE CHANCE TO
11 ACT ON IT?

12 A. YEAH, I SUPPOSE THAT'S RIGHT.

13 JUDGE ZABAN: LET ME INTERRUPT YOU HERE.

14 MY QUESTION IS, TYPICALLY, IN A SITUATION
15 WHERE YOU START TO GET TANDEM GROWTH, IS IT -- IS IT
16 A GRADUAL THING OR HAS YOUR PAST EXPERIENCE FOUND
17 THAT YOU HAVE SPIKES IN THE GROWTH?

18 IN OTHER WORDS, DOES IT GO LIKE 75, 76,
19 77, SO YOU CAN ACTUALLY SEE THE GROWTH OR DO YOU GO
20 LIKE 50, 75, 90, A HUNDRED? I MEAN, WHAT'S BEEN THE
21 EXPERIENCE?

22 THE WITNESS: IT COULD HAPPEN EITHER WAY.

1 AND IF IT HAPPENS THAT SLOW, STEADY WAY,
2 IT'S BECAUSE MORE AND MORE PEOPLE HERE ARE SIGNING
3 UP, SAY, FOR A PARTICULAR ISP. YOU KNOW, THEY'RE
4 CATCHING ON. THEY'RE DOING MORE ADVERTISING. MORE
5 PEOPLE ARE USING IT. YOU CAN ADD AN ISP TO HIS
6 NETWORK AND SUDDENLY LIKE THAT, THERE'S MORE
7 TRAFFIC.

8 JUDGE ZABAN: DOESN'T THAT FORECAST THEN BECOME
9 SIGNIFICANT TO YOU IN TERMS OF WHAT HE ANTICIPATES
10 HIS GROWTH IS GOING TO BE TO ALLOW YOU TO ANTICIPATE
11 WHAT YOUR NEEDS ARE GOING TO BE?

12 THE WITNESS: YES. AND TO SOME EXTENT, WE'RE
13 ALMOST TALKING ABOUT TWO DIFFERENT KINDS OF
14 FORECASTING EVENTS.

15 ONE KIND OF EVENT WOULD BE WE ANTICIPATE
16 ADDING FIVE MORE ISPS THIS YEAR. ANOTHER EVENT
17 WOULD BE WE HAVE SIGNED THIS CUSTOMER. WE NEED TO
18 PREPARE FOR HIS TRAFFIC.

19 YOU KNOW, ONE WOULD LOOK LIKE A FORECAST.
20 THE OTHER WOULD REALLY LOOK LIKE AN ORDER, GIVE US
21 MORE TRUNKS.

22 BY MR. ROMANO:

1 Q. AND IF WE DON'T ORDER PURSUANT -- I MEAN, WE
2 DON'T ORDER WHEN WE PLACE THE FORECAST. WE ACTUALLY
3 HAVE TO GO IN AGAIN AND ISSUE AN ASR, AN ACCESS
4 SERVICE REQUEST, TO ACTUALLY GET THE ORDER IN?

5 A. THAT'S CORRECT.

6 BEFORE I DRAW MORE LINES --

7 JUDGE MORAN: BEFORE YOU GO AWAY FROM THAT
8 EXHIBIT, MR. MINDELL, CAN YOU IDENTIFY EACH OF THE
9 COMPONENTS THAT ARE DRAWN IN?

10 THE WITNESS: OH, OKAY. WELL, THIS WAS AIT END
11 OFFICE 1.

12 YOU MEAN, LIKE THAT, END OFFICE 2?

13 JUDGE MORAN: YES.

14 THE WITNESS: END OFFICE 3. AND THIS ONE WAS NO
15 DIRECT TRUNKS TO LEVEL 3. END OFFICE 4, END OFFICE
16 5, AND THEN THIS WAS LEVEL 3 SWITCH, LEVEL 3 ISP.

17 JUDGE MORAN: GREAT. THANK YOU.

18 JUDGE ZABAN: MR. MINDELL, BEFORE YOU SIT DOWN,
19 CAN YOU GO BACK TO THE EXHIBIT THAT WAS UP THERE
20 ORIGINALLY, MR. -- RATHER THAN HAVING YOU GO BACK, I
21 DO HAVE ONE QUESTION ABOUT THAT.

22 ON THE -- YOU WERE PRESENT -- YOU WERE

1 PRESENT WHEN MR. GATES DREW THAT EXHIBIT; IS THAT
2 CORRECT?

3 THE WITNESS: THAT'S CORRECT.

4 JUDGE ZABAN: ALL RIGHT. AND YOU'RE FAMILIAR
5 WITH THE EXHIBIT, RIGHT.

6 THE WITNESS: YES.

7 JUDGE ZABAN: AND THAT SHOWS THE POI SWITCH
8 THAT'S LOCATED IN DOWNTOWN CHICAGO. AND THE EXAMPLE
9 HE USED WAS SOMETHING FROM ELGIN, CORRECT?

10 THE WITNESS: THAT'S CORRECT.

11 JUDGE ZABAN: ALL RIGHT. AND MY UNDERSTANDING
12 IS THAT MR. GATES TOLD US THAT IF A LEVEL 3 CUSTOMER
13 CALLS FROM ELGIN, IT GOES TO CHICAGO TO THE LEVEL 3
14 SWITCH AND BACK OUT TO ELGIN; IS THAT CORRECT?

15 THE WITNESS: YES.

16 JUDGE ZABAN: ALL RIGHT. IF A POI CONNECTION
17 WERE MADE IN ELGIN, THEN, OBVIOUSLY, THE FIRST THING
18 IS THAT AMERITECH WOULDN'T HAVE TO PAY FOR THE
19 TRANSPORT FROM ELGIN TO THE DOWNTOWN SWITCH; IS THAT
20 CORRECT?

21 THE WITNESS: THAT'S CORRECT.

22 JUDGE ZABAN: ALL RIGHT. SO THAT'S ONE SAVING

1 TO AMERITECH; IS THAT RIGHT?

2 THE WITNESS: THAT'S RIGHT.

3 JUDGE ZABAN: IF A SWITCH WERE PUT IN IN ELGIN,

4 WOULD THAT ALLOW THE LEVEL 3 CUSTOMER TO CALL

5 DIRECTLY TO ANOTHER LEVEL 3 CUSTOMER IN ELGIN

6 WITHOUT HAVING TO TRAVEL DOWNTOWN AS WELL?

7 THE WITNESS: THAT'S CORRECT.

8 JUDGE ZABAN: SO THAT, ACTUALLY, THERE WOULD BE

9 A SAVINGS TO LEVEL 3, IF IT HAD ENOUGH VOLUME IN AN

10 AREA, IN TERMS OF IT WOULDN'T HAVE TO PAY FOR THE

11 TRANSPORT DOWNTOWN IF IT HAD THAT SWITCH; IS THAT

12 CORRECT?

13 THE WITNESS: THAT'S RIGHT.

14 JUDGE ZABAN: ALL RIGHT. I'M SAYING FROM

15 DOWNTOWN TO ELGIN AS WELL; IS THAT CORRECT?

16 THE WITNESS: THAT'S RIGHT.

17 THE IDEA IS THAT IF HE HAS A LEVEL 3

18 CUSTOMER CALLING ANOTHER LEVEL 3 CUSTOMER AND

19 THEY'RE BOTH IN ELGIN, RIGHT NOW IT'S ALL

20 (INAUDIBLE) --

21 JUDGE ZABAN: SO HE WOULDN'T HAVE TO PAY FOR

22 THE -- I'M SAYING, FOR THE TRANSPORT FROM CHICAGO.

1 SO THERE IS SOME SAVINGS -- POTENTIAL SAVINGS TO
2 LEVEL 3 BY PUTTING IN SWITCHES IN AREAS WHERE THEY
3 HAVE A LARGE VOLUME OF TRAFFIC; IS THAT CORRECT?

4 THE WITNESS: THAT'S CORRECT. AND WHAT WOULD
5 TRIGGER THAT IT WOULD BE POSSIBLY A LOT OF CUSTOMERS
6 ON THEIR NETWORK IN SOMEPLACE FAR AWAY FROM CHICAGO
7 CALLING EACH OTHER.

8 JUDGE ZABAN: OKAY. THAT'S ALL I HAVE.

9 THE WITNESS: OKAY.

10 JUDGE MORAN: IF MR. ROMANO DOESN'T HAVE ANY
11 MORE QUESTIONS ON THE EXHIBIT, THEN THE WITNESS MAY
12 SIT DOWN.

13 MR. ROMANO: I HAVE NO MORE QUESTIONS ON THE
14 EXHIBIT.

15 JUDGE MORAN: GREAT.

16 THANK YOU.

17 MR. ROMANO: I ONLY HAVE ONE MORE QUESTION, ONE
18 MORE SERIES OF QUESTIONS AT ALL.

19 BY MR. ROMANO:

20 Q. ON PAGE 24 OF YOUR TESTIMONY, WE'VE GOT SOME
21 DISCUSSION THERE, I BELIEVE, OF APPENDIX ITR,
22 SECTIONS 5.2.1 AND 5.2.3?

1 A. THAT'S CORRECT.

2 Q. I JUST WANT TO BE CLEAR.

3 I DON'T THINK THIS IS A DISPUTE IN THE
4 AMERITECH TERRITORY, CORRECT? I MEAN, IF YOU LOOK
5 AT THE CONTRACT LANGUAGE OF THOSE SECTIONS, DON'T
6 THEY REFER TO ONLY SBC AFFILIATES OUTSIDE OF THE
7 AMERITECH TERRITORY?

8 A. I'M NOT SURE THAT I HAVE THE AMERITECH
9 VERSION OF THE CONTRACT.

10 Q. THE APPENDIX ITR --

11 A. YEAH.

12 Q. -- SECTION 5.2.1. I DON'T KNOW IF COUNSEL
13 HAS THAT CONTRACT SECTION AVAILABLE.

14 A. I HAVE ONE HERE AND I THOUGHT IT WENT TO
15 AMERITECH.

16 Q. DOES --

17 A. OH, UNLESS THE QUESTION IS, DO WE HAVE
18 ANY -- WELL --

19 MR. FRIEDMAN: I'M GOING TO SUGGEST THAT,
20 DEPENDING ON WHERE YOU'RE HEADED -- AND I THINK
21 YOU'RE JUST HEADED IN THE DIRECTION OF IDENTIFYING
22 WHETHER WE HAVE AN ISSUE HERE -- THE MOST EFFICIENT

1 WAY TO DO IT MIGHT BE OFF THE RECORD THEN WITH A
2 STIPULATION.

3 MR. ROMANO: OKAY. THAT'S FINE.

4 MR. FRIEDMAN: IF WE DON'T HAVE AN ISSUE, THEN
5 WE DON'T.

6 MR. ROMANO: I JUST REALIZED IT LOOKING THROUGH
7 IT A BIT AGO, SO THAT MAY BE THE BEST TO DO IT OFF
8 THE RECORD.

9 JUDGE ZABAN: THAT'S FINE.

10 MR. ROMANO: THEN I HAVE NO FURTHER QUESTIONS.

11 MR. FRIEDMAN: OH, I'M SORRY.

12 GO AHEAD.

13 (DISCUSSION OFF THE RECORD.)

14 JUDGE ZABAN: I WAS GOING TO SUGGEST WE'RE
15 PROBABLY GOING TO TAKE A BREAK AFTER STAFF
16 FINISHES -- AFTER EVERYBODY'S DONE WITH THE WITNESS.
17 THE TWO OF YOU CAN WORK IT OUT AT THAT POINT. WE'LL
18 GO BACK ON THE RECORD THEN AND PICK UP THE
19 QUESTIONING OR JUST COME TO A STIPULATION. HOW'S
20 THAT?

21

22

1 CROSS -EXAMINATION

2 BY

3 MS. NAUGHTON:

4 Q. GOOD MORNING.

5 A. GOOD MORNING.

6 Q. I'M GOING TO ASK YOU SOME QUESTIONS ON ISSUE
7 27, POINTS OF INTERCONNECTION.

8 WE'VE HEARD TODAY THAT AMERITECH HAS
9 OFFERED THAT A POI WOULD BE REQUIRED THAT AT A DS -3
10 LEVEL OF TRAFFIC WHICH CORRESPONDS TO 272 TRUNKS OF
11 TRAFFIC?

12 A. I'M SORRY. 672.

13 Q. I'M SORRY. 672?

14 A. YEAH.

15 Q. IS THAT RIGHT?

16 A. THAT'S CORRECT.

17 Q. AND LEVEL 3'S POSITION IS THAT A POI SHOULD
18 BE ESTABLISHED AT AN OC 12 LEVEL WHICH CORRESPONDS
19 TO 8,000 TRUNKS?

20 A. AND THIS IS WHERE I'M SORRY I DON'T HAVE MY
21 WIFE'S ABILITY TO RAISE ONE EYEBROW AND SAY 8,000
22 TRUNKS.

1 YES. IT'D BE A PERFECT TIME TO DO THAT.

2 Q. THANK YOU.

3 THERE'S ALSO BEEN A DATA REQUEST MADE ON
4 THE RECORD AND I WANTED YOU TO HELP ME OUT HERE TO
5 CLARIFY FOR ME.

6 WILL THE ON-THE-RECORD DATA REQUEST MADE
7 TODAY PROVIDE US WITH INFORMATION AS TO THE OVERALL
8 NUMBER OF TRUNKS OF TRAFFIC AT A TANDEM?

9 A. I -- IT COULD. I WASN'T PLANNING TO DO
10 THAT, BUT I -- AND LET ME KNOW IF I'M JUMPING THE
11 GUN A LITTLE BIT ON THIS OR WHAT.

12 THE QUESTION WE HAVE ISN'T JUST TANDEM
13 TRUNKS, OF COURSE, IT'S ALSO END OFFICE TRUNKS.
14 BECAUSE EVEN IF THEY'RE PULLING THE TRAFFIC STRAIGHT
15 OUT OF AN END OFFICE BEHIND A TANDEM --

16 Q. HM-HMM.

17 A. -- WE STILL WANT THE FACILITIES FROM THE
18 TANDEM TO THEM TO BE PROVIDED BY THEM.

19 MS. NAUGHTON: CAN I THEN MAKE AN ON-THE-RECORD
20 DATA REQUEST THAT WE -- EITHER IT'S A NEW DATA
21 REQUEST OR WE CLARIFY THAT THE OLD ONE INCLUDE THAT
22 INFORMATION BOTH WITH RESPECT TO THE END OFFICE AND

1 TANDEM?

2 THE WITNESS: OKAY. HOW MANY END OFFICE AND

3 TANDEM TRUNKS?

4 MS. NAUGHTON: RIGHT.

5 JUDGE MORAN: TO THE EXTENT IT GOES BEYOND WHAT

6 WAS INITIALLY REQUESTED, IT'S AN ADDITIONAL DATA

7 REQUEST.

8 MS. NAUGHTON: OKAY. IT'S AN ADDITIONAL DATA

9 REQUEST THEN.

10 THE WITNESS: SURE.

11 BY MS. NAUGHTON:

12 Q. HOW LONG HAS LEVEL 3 AND AMERITECH BEEN

13 INTERCONNECTING IN LATA 358?

14 A. I'M THINKING THREE YEARS.

15 Q. ARE YOU AWARE THAT YESTERDAY, LEVEL 3'S

16 WITNESS THOUGHT IT WAS 18 MONTHS.

17 A. OH. YES. AND WHEN I'M KEYING OFF THIS, I

18 THOUGHT IT WAS A THREE-YEAR ACCOUNT CONTRACT AND

19 THAT IT WAS EXPIRING, BUT THAT'S ALL THE INFORMATION

20 I HAVE ON IT AND I COULD BE WRONG.

21 I NEED TO LEARN TO SAY I DON'T KNOW.

22 MS. NAUGHTON: I GUESS I'D ALSO LIKE TO MAKE AN

1 ON-THE-RECORD DATA REQUEST FOR THAT INFORMATION AS

2 WELL.

3 THE WITNESS: OKAY. HOW LONG IN CHICAGO. OKAY.

4 MR. FRIEDMAN: WELL, IS THE QUESTION HOW LONG

5 HAVE THE TWO NETWORKS BEEN ACTUALLY INTERCONNECTING?

6 MS. NAUGHTON: HAVE THEY BEEN INTERCONNECTING.

7 DO YOU THINK THERE'S A DIFFERENCE BETWEEN

8 THAT AND HAVING THE INTERCONNECTION AGREEMENT?

9 MR. FRIEDMAN: I'M JUST ALLOWING THAT MAYBE -- I

10 JUST WANT TO BE SURE I KNEW WHAT YOU WERE ASKING

11 FOR.

12 MS. NAUGHTON: OKAY. BECAUSE I WOULD LIKE TO

13 KNOW IF THERE IS A DIFFERENCE IF YOU'VE HAD AN

14 INTERCONNECTION AGREEMENT FOR THAT SAME PERIOD OF

15 TIME.

16 THE WITNESS: OKAY.

17 MR. FRIEDMAN: WELL, MAYBE FOR THE SAKE OF

18 SIMPLICITY, THE INTERCONNECTION AGREEMENT IS AN

19 APPROVED AGREEMENT -- COMMISSION-APPROVED AND VERY

20 READILY AVAILABLE.

21 AND IN THE NORMAL COURSE, INTER -- ACTUAL

22 PHYSICAL INTERCONNECTION WOULD NOT OCCUR UNTIL

1 SOMETHING ON THE ORDER OF 150 DAYS OR SO AFTER THE
2 AGREEMENT.

3 MS. NAUGHTON: I'D JUST LIKE TO KNOW WHAT'S
4 ACTUALLY GOING ON, SO... IF HE DOESN'T MIND DOING
5 THAT.

6 BY MS. NAUGHTON:

7 Q. OKAY. WHAT IS THE VOLUME OF TRAFFIC AT THE
8 SINGLE POI FOR SUCH LATA THAT'S LATA 358?

9 A. ANY THE VOLUME OF TRAFFIC AT -- I'M SORRY.
10 LET ME HAVE THAT AGAIN.

11 Q. THE VOLUME OF TRAFFIC AT LATA 358, WHICH IS
12 YOUR ONLY POI.

13 A. I DON'T KNOW IF THIS WILL HELP OR NOT.

14 A TANDEM WILL HANDLE UP TO ABOUT 100,000
15 TRUNKS, AND OUR TANDEMS TEND TO BE FAIRLY FULL UP.
16 WE HAVE TO KEEP DROPPING IN MORE TANDEMS. SO WE
17 HAVE SEVEN -- SEVEN TANDEMS.

18 Q. MAYBE IT WOULD BE HELPFUL FOR ME TO -- I'M
19 NOT SURE IF YOU WERE HERE YESTERDAY, BUT LEVEL 3 --

20 JUDGE ZABAN: YOU MEAN FRIDAY.

21 BY MS. NAUGHTON:

22 Q. I'M SORRY. FRIDAY. IT FELT LIKE YESTERDAY.

1 -- LEVEL 3'S WITNESS TESTIFYING THAT THEY
2 HAD AN OC 48 IN PLACE AT THAT POI, AND THAT ONLY THE
3 FIRST TWO, OC 12, OC 24, THEY WERE USED ENTIRELY AND
4 A PORTION OF THE THIRD. I'M DOING THIS FROM MEMORY.
5 SO...

6 A. OKAY.

7 Q. I'M TRYING TO FIGURE OUT WHETHER YOU WOULD
8 AGREE WITH THAT INFORMATION.

9 A. I'VE GOT A NUMBER IN A CONFIDENTIAL VERSION
10 OF THE TESTIMONY THAT SAYS HOW MANY TRUNKS LEVEL 3
11 HAS UP AND I THINK THAT'S THE SAME NUMBER THEN. THE
12 NUMBER OF TRUNKS IS THE NUMBER OF FACILITIES IN USE
13 ACROSS THAT POI, IF THAT WOULD BE HELPFUL.

14 Q. THAT WOULD BE HELPFUL. YOU WANT TO KEEP
15 THAT CONFIDENTIAL?

16 A. I THINK I BETTER, YEAH.

17 MS. NAUGHTON: FINE. IF, SOMEHOW, HE CAN
18 ARRANGE TO GET ME THAT INFORMATION.

19 JUDGE ZABAN: HE SAID IT WAS IN HIS TESTIMONY.

20 THE WITNESS: IT WAS IN MY REBUTTAL TESTIMONY.

21 MS. NAUGHTON: CAN YOU POINT ME (SIC) TO A CITE
22 NOW FOR ME?

1 THE WITNESS: SURE.

2 MR. FRIEDMAN: AT THE BOTTOM OF PAGE 3, I THINK.

3 THE WITNESS: YEAH, THAT'S GOOD.

4 BY MS. NAUGHTON:

5 Q. SO YOU'RE REFERRING TO THE NUMBER OF TRUNKS

6 IN SERVICE THAT ARE -- THAT IS REFERENCED THERE ON

7 THE BOTTOM OF PAGE 3?

8 A. THAT'S CORRECT.

9 Q. OKAY.

10 A. EACH TRUNK WOULD TAKE A PATH ACROSS THAT

11 POI.

12 Q. OKAY. THANK YOU.

13 ON PAGE 7, LINES 21 THROUGH 24 OF YOUR

14 VERIFIED STATEMENT -- THIS WOULD BE YOUR INITIAL

15 STATEMENT -- YOU STATE THAT, "LEVEL 3'S POSITION

16 IMPOSES UPON AMERITECH ILLINOIS A HUNDRED PERCENT OF

17 THE GREATER TRANSPORT COSTS THAT ARE INHERENT IN THE

18 ARCHITECTURAL SYSTEM WITH A SINGLE POI PER LATA"?

19 A. CORRECT.

20 Q. CAN YOU QUANTIFY HOW MUCH THOSE GREATER

21 COSTS ARE?

22 A. I DON'T HAVE IT WITH ME AT THE MOMENT.

1 WHAT I WOULD DO TO QUANTIFY IT IS TAKE
2 THE TELRIC COSTS THAT WE HAVE DEVELOPED PER -- FOR
3 LOCAL TRANSPORT PER MILE AND JUST MULTIPLY THAT
4 TIMES THE AMOUNT OF FACILITIES WE'RE USING UP IN
5 THOSE TRUNKS FROM EACH OF THE, SAY, TANDEMS.

6 Q. OKAY. LET ME ALSO CLARIFY THAT THAT WOULD
7 BE COSTS THAT WERE NOT REIMBURSED EITHER BY PAYMENT
8 THROUGH LEVEL -- BY LEVEL 3'S PAYMENT OF AMOUNTS OR
9 BY CUSTOMER PAYMENTS.

10 A. COULD I GET AT THAT BY SAYING THAT WE
11 WOULD -- WE WOULD FEEL THAT A FAIR REIMBURSED
12 BALANCED VIEW OF THIS WOULD BE IF WE WERE TO MEET AT
13 EACH TANDEM.

14 AND SO THE DIFFERENCE BETWEEN MEETING AT
15 EACH TANDEM AND MEETING AT THE SINGLE POI ARE REALLY
16 THE COSTS THAT WE'RE LOOKING AT.

17 Q. SO IT'S BASED UPON YOUR PHILOSOPHY,
18 BASICALLY?

19 A. YES.

20 Q. AND THEN THAT'S HOW YOU COME UP WITH THESE
21 GREATER COSTS?

22 A. THAT'S WHAT I WOULD DO, YES.

1 Q. AS OPPOSED TO -- I'M TRYING TO GET AT
2 WHETHER OR NOT THERE'S ACTUAL COSTS HERE THAT -- OR
3 IS THIS SOMETHING THAT BECAUSE OF YOUR PHILOSOPHY
4 THAT WOULD BE BETTER TO SPLIT THE COSTS ON THE BASIS
5 OF A POI IN EACH TANDEM.

6 YOU'VE COME UP WITH A SET OF COSTS
7 THAT -- I THINK YOUR ANSWER IS YES, FROM WHAT I CAN
8 TELL, BUT --

9 A. I'M TRYING TO THINK OF THE DIFFERENT METHODS
10 THERE ARE OF REIMBURSEMENT THAT MIGHT PLAY INTO
11 THIS.

12 ONE OF THE METHODS IS RECIPROCAL
13 COMPENSATION, BUT THAT IMPLIES TWO-WAY TRAFFIC; WE
14 PAY THEM SOME, THEY PAY US SOME. WE DON'T HAVE
15 TWO-WAY TRAFFIC RIGHT NOW, SO WE'RE MAKING ALL THOSE
16 RECIPROCAL COMPENSATION PAYMENTS TO THEM.

17 Q. I UNDERSTAND.

18 SO YOU'RE TYING INTO THE RECIPROCAL
19 COMPENSATION ISSUE, TO SOME EXTENT?

20 A. YEAH, TO SOME EXTENT.

21 Q. OKAY. I HAVE ONE QUESTION FOR YOU ON ISSUE
22 32, TRUNK BLOCKING.

1 A. OKAY.

2 Q. ON PAGES 23 TO 24 OF YOUR SUPPLEMENTAL
3 TESTIMONY, YOU SET FORTH THE RATE CENTERS FOR WHICH
4 LEVEL 3 HAS RESERVED OR OPENED PREFIXES.

5 A. YES.

6 Q. JUST TO CLARIFY, THE RESERVATION OF PREFIXES
7 DOES NOT NECESSARILY MEAN THAT TRAFFIC ACTUALLY
8 EXISTING IN THE RATE CENTERS CORRESPONDS TO SUCH
9 PREFIXES; ISN'T THAT CORRECT?

10 A. THAT'S CORRECT FOR A PERIOD OF TIME.

11 I DON'T KNOW THAT YOU CAN HANG ON TO AN
12 NXX FOREVER, THOUGH. I THINK IT DOES EXPIRE AND YOU
13 HAVE TO THROW IT BACK IF YOU'RE --

14 Q. YEAH, BUT EVEN THEN, IF YOU THROW IT BACK,
15 THERE MAY NEVER HAVE BEEN ANY TRAFFIC?

16 A. OH, YES.

17 MS. NAUGHTON: OKAY. THAT'S ALL I HAVE.

18 THANK YOU.

19 MR. FRIEDMAN: DO THE EXAMINERS HAVE QUESTIONS?
20 I BELIEVE I HAVE A COUPLE.

21 MAY I TAKE -- I'D LIKE TO TAKE A COUPLE
22 OF MINUTES, IF I COULD.

1 JUDGE MORAN: SURE. WHY DON'T WE TAKE A FIVE OR
2 TEN-MINUTE BREAK.

3 JUDGE ZABAN: TAKE A SEVEN -AND-A-HALF-MINUTE
4 BREAK.

5 TAKE A TEN-MINUTE BREAK.

6 (RECESS TAKEN.)

7 (WHEREUPON, AMERITECH
8 EXHIBIT NO. 3.0 WAS
9 MARKED FOR IDENTIFICATION
10 AS OF THIS DATE.)

11 JUDGE MORAN: YOU CAN PROCEED, COUNSEL.

12 MR. FRIEDMAN: THANK YOU.

13 REDIRECT EXAMINATION

14 BY

15 MR. FRIEDMAN:

16 Q. THREE QUESTIONS, MR. MINDELL, FOLLOWING UP
17 ON THINGS THAT YOU SAID WHILE YOU WERE TALKING WITH
18 MR. ROMANO.

19 FIRST, AT THE BEGINNING OF HIS
20 CROSS-EXAMINATION, HE ASKED YOU A QUESTION ABOUT
21 AMERITECH ILLINOIS' POSITION, ITS REQUEST FOR -- AS
22 IT ONCE WAS, POINT OF INTERCONNECTION FOR EACH

1 TANDEM, AND YOU SAID, YES, THAT'S RIGHT, FROM A
2 FACILITIES STANDPOINT.

3 A. YEAH.

4 Q. WHAT DID YOU MEAN WHEN YOU SAID, YES, FROM A
5 FACILITIES STANDPOINT, THAT'S THE POSITION?

6 A. OKAY. THAT WE HAVE NO CONTENTION AT THIS
7 POINT WITH LEVEL 3 FROM A TRUNK STANDPOINT.

8 IF LEVEL 3 HAS AN END USER OUT OF ELGIN,
9 ILLINOIS AND ELGIN, ILLINOIS WORKS, SAY, OFF THE
10 NORTHBROOK TANDEM, JUST AS A HYPOTHETICAL, LEVEL 3
11 IS IN AGREEMENT THAT FROM THE GET-GO, THEY'LL HAVE
12 TRUNKS OUT OF THE NORTHBROOK TANDEM TO THEMSELVES IN
13 ORDER TO HANDLE TRAFFIC FROM ANY OF THE SUBTENDING
14 OFFICES FROM NORTHBROOK, INCLUDING ELGIN, AND THAT
15 WE HAVE AN AGREEMENT NOW THAT SHOULD THERE BE SUCH
16 TRAFFIC IN ELGIN, THEY'LL GRAB DIRECT TRUNKS OUT OF
17 ELGIN.

18 THE QUESTION OF FACILITIES AND POIS IS,
19 GIVEN THAT WE HAVE TRUNKS COMING OUT OF THOSE TWO
20 SWITCHES, WHO IS IT THAT HAS TO MAINTAIN, OWN,
21 INSTALL THE DS-3S OR OC-3S OR WHATEVER FACILITIES
22 ARE CARRYING THOSE TRUNKS TO GET ALL THE WAY TO

1 LEVEL 3 SWITCHES. CURRENTLY, WE CARRY THEM TO OUR
2 WABASH TANDEM, EVEN THOUGH THEY'RE TRUNKS OUT OF
3 OTHER PLACES. THE FACILITIES THAT THOSE TRUNKS RIDE
4 ON ARE OUT OF -- ARE CARRIED BY US ALL THE WAY TO
5 WABASH, AND THEN LEVEL 3 PICKS THEM UP AND CARRIES
6 THEM TO THEIR PREMISE.

7 Q. YOU MENTIONED THAT UNDER THE CURRENT
8 ARRANGEMENT WHERE WE HAVE JUST THE ONE POINT OF
9 INTERCONNECTION, AMERITECH ILLINOIS BEARS THE
10 TRANSPORT COSTS THAT I THINK YOU SAID ARE, QUOTE,
11 NOT OURS?

12 A. CORRECT.

13 Q. IF THESE TRANSPORT COSTS ARE NOT, AS YOU SEE
14 IT, APPROPRIATELY AMERITECH ILLINOIS', THEN WHY IS
15 AMERITECH ILLINOIS PREPARED TO CONTINUE TO BEAR
16 THOSE COSTS UP TO THE POINT WHERE THE TRAFFIC
17 REACHES THIS THRESHOLD, THE AMERITECH ILLINOIS
18 PROPOSED THRESHOLD BEING 672 TRUNKS?

19 WHY GO UP THAT HIGH RATHER THAN TRUNK
20 NO. 1 BEING THE THRESHOLD?

21 A. PART OF -- PART OF OUR REASONING THERE IS --
22 WELL, THERE'S A FOCAL DECISION THAT WAS HERE IN

1 ILLINOIS THAT SAID THAT THE COMMISSION LOOKED AT
2 THIS ISSUE ALREADY, AND THEY WERE NOT PREPARED TO
3 SAY THAT EVEN FOR AN INCIDENTAL TINY AMOUNT OF
4 TRAFFIC, THAT THEY -- THAT THEY WANTED A POI
5 ESTABLISHED AT EACH TANDEM OR AT EACH SPOT.

6 THEY SAID THERE REALLY HAD TO BE SOME
7 TRAFFIC THERE SO THAT IT WOULDN'T LOOK LIKE WE WERE
8 JUST CREATING A BARRIER TO ENTRY, THAT WE HAD A
9 LEGITIMATE NEED FOR A POINT OF INTERCONNECTION. AND
10 WE'RE LOOKING AT THAT AND SAYING, YEAH, LET'S HAVE
11 SOME AMOUNT OF TRAFFIC BEFORE WE REQUIRE IT.

12 WE NEVER MEANT TO REQUIRE IT WITH NO
13 TRAFFIC. WE NEVER MEANT TO REQUIRE IT AS SOMETHING
14 THAT HAD TO BE SET UP BEFORE WE WOULD TURN ON ANY
15 TRAFFIC AT ALL. WE ONLY EVER MEANT TO SPLIT IT WHEN
16 THERE REALLY WAS TRAFFIC THERE.

17 AND SO THE QUESTION IS NOW WHEN WE DO
18 KNOW THERE REALLY IS TRAFFIC THERE.

19 Q. DOES THE 672 TRANSLATE INTO 672 CUSTOMERS,
20 BY WHICH I MEAN, IS THE THRESHOLD THAT AMERITECH
21 ILLINOIS' PROPOSING A THRESHOLD THAT SAYS THAT A
22 POINT OF INTERCONNECTION SHOULD BE ESTABLISHED FOR A

1 TANDEM AT THE POINT WHERE A LEVEL 3 GETS IN A
2 POSITION WHERE IT HAS 672 CUSTOMERS BEING SERVED OUT
3 OF THAT TANDEM OR IN SUBTENDING END OFFICES?

4 A. NO. WHAT WE'RE REALLY LOOKING AT IS HOW
5 MANY SIMULTANEOUS CALLS BECAUSE WHAT WE'RE LOOKING
6 AT IS HOW MANY TRUNKS.

7 AT SUCH A POINT THAT WE HAVE TO HAVE 672
8 TRUNKS FROM END OFFICES AND FROM A TANDEM, YOU KNOW,
9 THAT 672 FROM ALL THOSE PLACES COMBINED TO LEVEL 3,
10 THEN WE WANT TO SEE A POI THERE.

11 IN TERMS OF NUMBER OF CUSTOMERS ACTUALLY
12 USING IT, AND I THINK WE SORT OF GOT THAT -- THERE A
13 LITTLE BIT EARLIER, IF IT'S A HALF HOUR OF CALLS,
14 TWO TIMES 672, WE COULD USE THAT DURING THE BUSY
15 HOUR.

16 TO THE EXTENT THAT IT -- JUST BECAUSE YOU
17 HAVE A SUBSCRIBER OF AN ISP DOESN'T MEAN THAT HE'S
18 ACTUALLY GOING TO BE ON THE PHONE WITH THAT ISP.
19 YOU WOULD HAVE FAR MORE, IN FACT, SUBSCRIBERS OF
20 LEVEL 3'S CUSTOMERS.

21 Q. IF LEVEL 3'S BUSINESS DEVELOPED IN A
22 DIRECTION WHERE IT WAS SERVING CUSTOMERS IN ADDITION

1 TO CUSTOMERS -- IN ADDITION TO ISPS, THAT IS,
2 CUSTOMERS WHO WERE ENGAGING IN SHORTER CALLS, WOULD
3 THAT TEND TO DRIVE UP OR DRIVE DOWN OR HAVE NO
4 EFFECT ON HOW MANY CUSTOMERS THE 672 -CALL THRESHOLD
5 TRANSLATES INTO?

6 A. IT -- A REGULAR SUBSCRIBER ON A REGULAR
7 NETWORK HAS A DIFFERENT BUSY HOUR PROBABLY THAN AN
8 ISP USER.

9 AND TO THE EXTENT THAT THEY HAD CUSTOMERS
10 WHO USED A DIFFERENT BUSY HOUR, THEY COULD PROBABLY
11 SNEAK IN ANOTHER, YOU KNOW, FEW THOUSAND OF THOSE
12 CUSTOMERS. THE CALLS ARE SHORTER. THE ODDS OF THEM
13 NEEDING TO USE THE PHONE DURING, YOU KNOW, A BUSY
14 HOUR WOULD BE DIFFERENT. SO THERE COULD BE THIS
15 PARALLEL NETWORK ON THE SAME -- ON THE SAME POI.

16 MR. FRIEDMAN: THAT'S ALL I HAVE.

17 THANK YOU.

18 JUDGE MORAN: MR. ROMANO?

19 MR. ROMANO: NOTHING.

20 JUDGE MORAN: OKAY. I BELIEVE THAT WE'RE
21 FINISHED WITH THE WITNESS.

22 THANK YOU, MR. MINDELL, AND PROCEED TO

1 CALL YOUR NEXT WITNESS.

2 MR. FRIEDMAN: AMERITECH ILLINOIS' NEXT WITNESS
3 IS ERIC PANFIL.

4 ERIC PANFIL,
5 CALLED AS A WITNESS HEREIN, HAVING BEEN FIRST DULY
6 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY

9 MR. FRIEDMAN:

10 Q. WOULD YOU SAY YOUR NAME AND ADDRESS FOR THE
11 REPORTER, PLEASE.

12 A. ERIC L. PANFIL, 2000 WEST AMERITECH CENTER
13 DRIVE, HOFFMAN ESTATES, ILLINOIS 60196.

14 Q. DID YOU PREPARE THE VERIFIED STATEMENT OF
15 ERIC PANFIL DATED JUNE 5, 2000 THAT WE'VE MARKED AS
16 AMERITECH EXHIBIT 3.0?

17 A. YES, I DID.

18 Q. THAT DOCUMENT CONSISTS OF 35 PAGES OF TEXT
19 FOLLOWED BY FIVE SCHEDULES, CORRECT?

20 ACTUALLY, I THINK YOU CALL THEM
21 ATTACHMENTS.

22 A. I HAVE 39 PAGES.

1 Q. I SEE 39 PAGES.

2 A. YOU DO. OKAY. 39 PAGES OF TEXT AND FIVE
3 SCHEDULES.

4 Q. DO YOU HAVE ANY CORRECTIONS TO YOUR
5 TESTIMONY?

6 A. I HAVE ONE CORRECTION ALONG THE LINES OF
7 DR. HARRIS, THOUGH NOT QUITE SO EMBARRASSING.

8 ON PAGE 27, I HOPE, IF WE DON'T HAVE
9 PAGINATION PROBLEMS, THERE'S A TABLE RIGHT AT THE
10 BOTTOM OF THE PAGE. AND THE HEADING OF THE SECOND
11 COLUMN WHICH CURRENTLY SAYS, AMERITECH MICHIGAN,
12 ABBREVIATED M-I, TANDEM. IT SHOULD SAY AMERITECH
13 ILLINOIS, ABBREVIATED I-L, TANDEM.

14 Q. ANY OTHER CORRECTIONS?

15 A. NO, NO OTHER CORRECTIONS.

16 Q. WITH THAT, IF I ASK YOU TODAY THE QUESTIONS
17 THAT APPEAR IN AMERITECH EXHIBIT 3.0, WOULD YOU GIVE
18 THE SAME ANSWERS THAT ARE IN THE DOCUMENT?

19 A. YES, I WOULD.

20 Q. WERE YOU HERE ON FRIDAY TO SEE THE TESTIMONY
21 OF MR. GATES ON BEHALF OF LEVEL 3?

22 A. YES, I WAS.

1 Q. WERE YOU HERE WHEN HE TALKED ABOUT THE
2 EXHIBIT WHICH IS NOW FACE UP ON THE EASEL BEHIND
3 MR. ROMANO?

4 A. YES, I WAS.

5 Q. IF THE HEARING EXAMINERS SHOULD HAVE
6 QUESTIONS CONCERNING YOUR TAKE ON MR. GATES'
7 TESTIMONY ON THE FX ISSUE IN THAT DIAGRAM, ARE YOU
8 PREPARED TO ANSWER THEM?

9 A. CERTAINLY, YES.

10 MR. FRIEDMAN: THANK YOU.

11 WITH THAT, WE MOVE INTO EVIDENCE
12 AMERITECH EXHIBIT 3.0.

13 JUDGE MORAN: ARE THERE ANY OBJECTIONS?

14 MR. ROMANO: NO OBJECTIONS, YOUR HONOR.

15 JUDGE MORAN: OKAY. HEARING NONE, AMERITECH
16 EXHIBIT 3.0 IS ADMITTED INTO THE RECORD SUBJECT TO
17 CROSS-EXAMINATION.

18 (WHEREUPON, AMERITECH
19 EXHIBIT NO. 3.0 WAS
20 ADMITTED INTO EVIDENCE AS
21 OF THIS DATE.)

22 JUDGE MORAN: AND WHO WISHES TO CROSS-EXAMINE?

1 MR. ROMANO: I'LL BEGIN, YOUR HONOR.

2 THANK YOU.

3 JUDGE MORAN: THANK YOU, MR. ROMANO. YOU MAY

4 PROCEED.

5 CROSS-EXAMINATION

6 BY

7 MR. ROMANO:

8 Q. GOOD MORNING, MR. PANFIL.

9 A. GOOD MORNING.

10 Q. STARTING WITH YOUR INITIAL VERIFIED

11 STATEMENT, PAGE 3, LINES 4 THROUGH 17, YOU'RE

12 DISCUSSING THERE THE ILLINOIS COMMISSION'S COMMENTS

13 IN AN FCC DOCKET WITH RESPECT TO ISP-BOUND TRAFFIC,

14 I BELIEVE, CORRECT?

15 A. YES.

16 Q. AND YOU SAY THERE -- YOU POINT TO THE

17 COMMISSION'S STATEMENT THAT -- THAT THE -- ASSUMING

18 THAT THE FCC DID NOT RECONSIDER ITS RULING THAT

19 ISP-BOUND TRAFFIC IS PREDOMINANTLY INTERSTATE, THAT

20 THE FCC SHOULD ADOPT CERTAIN FED -- SET FEDERAL

21 RULES TO GOVERN INTER-CARRIER COMPENSATION, CORRECT?

22 A. YES.

1 Q. AND THAT'S, HOWEVER, AS YOUR TESTIMONY SAYS,
2 ASSUMING THE FCC DOES NOT CONSIDER ITS RULING THAT
3 THIS TRAFFIC IS PREDOMINANTLY INTERSTATE, RIGHT?

4 A. YES, THAT'S CORRECT.

5 Q. AND DID THE ILLINOIS COMMISSION IN THOSE
6 COMMENTS, AS AN INITIAL MATTER -- AND I BELIEVE
7 THAT'S A QUOTE -- ENCOURAGE THE FCC FIND THAT IT HAD
8 ERRED IN CLAIMING ISP-BOUND TRAFFIC WAS INTERSTATE
9 IN NATURE?

10 A. YES, THAT'S MY UNDERSTANDING.

11 Q. AND I BELIEVE YOU'RE SAYING HERE THAT THE --
12 IN THE RESPONSE IN LINES 15 THROUGH 17 ON PAGE 3,
13 THAT COMMISSION SHOULD ESSENTIALLY DO NOTHING AND
14 LEAVE THIS QUESTION DETERMINATION OF INTER-CARRIER
15 COMPENSATION TO THE FCC; IS THAT RIGHT?

16 A. YES, IT IS.

17 Q. WHEN THE FCC SPOKE ON THIS ISSUE IN FEBRUARY
18 OF 1999, DIDN'T IT SAY THAT IT WOULD LEAVE TO THE
19 STATES FOR NOW THE -- THE RESPONSIBILITY OF SETTING
20 RATES FOR THIS KIND OF TRAFFIC OR ESTABLISHING
21 MECHANISMS OF COMPENSATION FOR THIS KIND OF TRAFFIC?

22 A. I BELIEVE IT SAID THAT THE STATES COULD DO

1 SO, IF THEY WISHED TO DO SO.

2 Q. AND WITH THAT FEBRUARY 1999 RULING HAVING
3 BEEN VACATED, WOULD YOU AGREE THAT THERE'S NOTHING
4 NOW THAT PREVENTS THIS COMMISSION FROM ADDRESSING
5 THE QUESTION OF HOW TO COMPENSATE CARRIERS FOR
6 ISP-BOUND TRAFFIC?

7 A. I WOULD AGREE THAT THERE IS NOTHING THAT
8 PREVENTS THEM FROM DOING SO. THE ISSUE IS STILL
9 PRETTY WELL UNRESOLVED FROM THAT STANDPOINT.

10 Q. AND SO YOU'RE SAYING THAT THE COMMISSION
11 SHOULD DO NOTHING IN THIS ARBITRATION IN TERMS OF
12 ISP-BOUND TRAFFIC; IS THAT -- IS THAT A CORRECT
13 ASSESSMENT?

14 A. THAT MY INITIAL BEST RECOMMENDATION IS THAT
15 THE COMMISSION SHOULD LEAVE THE ISSUE TO THE FCC.

16 Q. OKAY. IF THE COMMISSION DOES NOTHING IN
17 THIS ARBITRATION, DOESN'T THE CURRENT STATE OF LAW
18 IN ILLINOIS, THE PRECEDENT THAT'S ON THE BOOKS IN
19 ILLINOIS REQUIRE THE PAYMENT OF RECIPROCAL
20 COMPENSATION FOR ISP-BOUND TRAFFIC?

21 A. WELL, I GUESS THAT DEPENDS ON HOW YOU
22 INTERPRET DO NOTHING.

1 I MEAN, CERTAINLY, WHAT I MEANT HERE BY
2 SAYING THAT THEY SHOULD NOT ADOPT THEIR OWN VIEW OF
3 THAT ISSUE IS THAT THEY SHOULD ESSENTIALLY STATE
4 THAT THE TRAFFIC IS NOT SUBJECT TO RECIPROCAL
5 COMPENSATION AND THAT ANY COMPENSATION THAT MAY OR
6 MAY NOT BE APPROPRIATE SHOULD BE DETERMINED BY THE
7 FCC.

8 Q. BUT THAT WOULD BE AN ENTIRELY NEW
9 COMPENSATION SCHEME OR LACK OF SCHEME IN THE STATE
10 OF ILLINOIS, WOULDN'T IT?

11 I MEAN, THAT WOULD STILL REQUIRE
12 AFFIRMATIVE ACTION TO CHANGE WHAT IS CURRENTLY THE
13 STATE OF INTER-CARRIER COMPENSATION IN ILLINOIS?

14 A. IT WOULD BE A CHANGE FROM THE MOST RECENT
15 DECISIONS, YES.

16 Q. AND IN ADVOCATING THIS -- I BELIEVE YOU MAY
17 CALL THEM MEET POINT BILLING ARRANGEMENT AT ONE
18 POINT; IS THAT --

19 A. YES, I DID USE THAT TERM.

20 Q. ARE YOU SAYING THERE THAT THERE'S NO COSTS
21 INVOLVED IN SERVING OR TERMINATING ISP-BOUND CALLS?

22 A. NO, I WOULD NOT SAY THAT THERE IS NO COST

1 INVOLVED IN DELIVERING THOSE CALLS OR TERMINATING
2 THEM, OR WHATEVER TERM ONE WANTS TO USE TO DESCRIBE
3 THAT FUNCTION.

4 Q. BUT AMERITECH'S PROPOSAL WOULD LEAVE A
5 CARRIER WITHOUT ANY COMPENSATION FOR THOSE CALLS
6 UNDER A MEET POINT BILLING ARRANGEMENT?

7 A. I WOULD NOT NECESSARILY THINK THAT THEY
8 WOULD BE WITHOUT COMPENSATION. THEY WOULD CERTAINLY
9 BE WITHOUT INTER-CARRIER COMPENSATION.

10 IT'S MY BELIEF THAT THEY WOULD BE ABLE TO
11 SET RATES FOR THEIR ISP CUSTOMERS THAT WOULD PROVIDE
12 THEM WITH SUFFICIENT COMPENSATION TO COVER THOSE
13 COSTS AS WELL AS THE OTHER COSTS THAT ARE CREATED ON
14 THEIR NETWORK BY THOSE ISP CUSTOMERS.

15 Q. OKAY. SO THIS IS PAGE 9 OF YOUR TESTIMONY
16 THEN WHERE YOU GET INTO THE DISCUSSION OF HAVING
17 PERHAPS THE ISPS BEAR THE COST. I BELIEVE THE TOP
18 OF PAGE 9 OR SO.

19 A. YES, THERE IS DISCUSSION OF THE MEET POINT
20 BILLING TYPE ARRANGEMENT ON THE TOP OF PAGE 9.

21 Q. SO -- AND TO BE CLEAR, WHAT YOU'RE SAYING IS
22 PERHAPS A CLEC IN THIS CASE COULD GO BACK TO ITS ISP

1 AND RAISE THE STATE-TARIFFED RATE THAT IT CHARGES
2 THE ISP FOR SERVICE?

3 A. WELL, THERE ARE A COUPLE OF PRESUMPTIONS IN
4 THE QUESTION THE WAY IT'S ASKED.

5 THE FIRST IS THE PRESUMPTION THAT THE
6 CLEC IS PROVIDING THE SERVICE TO THE ISP OUT OF A
7 TARIFF AT A TARIFFED RATE, WHICH, AS I UNDERSTAND
8 IT, IS GENERALLY NOT THE CASE. MOST OF THAT IS DONE
9 ON AN INDIVIDUAL CASE BASIS OR A CONTRACTUAL BASIS
10 BETWEEN THE ISP AND THE CLEC.

11 I THINK THERE'S ANOTHER QUESTION AS TO --
12 THAT, AGAIN, IS KIND OF LEFT UNSAID AND I CAN'T
13 REALLY SAY ONE WAY OR ANOTHER WHETHER IT IS TRUE IN
14 ANY PARTICULAR CASE, BUT IT IS CERTAINLY POSSIBLE
15 THAT THE RATES THAT THE ISP IS PAYING TODAY TO
16 LEVEL 3 OR ANOTHER CLEC MAY TODAY BE SUFFICIENT TO
17 COVER LEVEL 3'S COSTS, TAKING LEVEL 3 AS AN EXAMPLE,
18 AT THE CURRENT RATE LEVELS WITHOUT THE PAYMENT OF
19 RECIPROCAL OR INTER-CARRIER COMPENSATION FROM
20 AMERITECH OR ANOTHER CARRIER.

21 Q. NOW, YOU'RE AWARE --

22 JUDGE MORAN: EXCUSE ME. JUST ONE MINUTE.

1 MR. PANFIL, IS YOUR MICROPHONE ON?

2 THE WITNESS: I BELIEVE SO.

3 (DISCUSSION OFF THE RECORD.)

4 JUDGE MORAN: OKAY.

5 BY MR. ROMANO:

6 Q. NOW, YOU'RE GENERALLY AWARE, CORRECT, THAT
7 THE FCC HAS EXEMPTED ISPS AND ENHANCED SERVICE
8 PROVIDERS FROM PAYING ACCESS CHARGES, CORRECT?

9 A. YES, I AM.

10 Q. AND WHAT YOU'RE ESSENTIALLY PROPOSING HERE
11 IS THAT THE ISP PAY A USAGE-BASED CHARGE ON TOP OF
12 WHATEVER BASIC LOCAL SERVICE RATE IT MIGHT PAY TO
13 THE -- ITS SERVING LEC, CORRECT?

14 A. NOT NECESSARILY. I DON'T THINK THAT THERE'S
15 A NEED AT ALL THAT THE CHARGES FROM A CLEC OR, FOR
16 THAT MATTER, AN ILEC TO AN ISP WOULD HAVE TO BE
17 USAGE SENSITIVE IN ORDER TO REASONABLY COVER THOSE
18 COSTS OF SWITCHING OR DELIVERING THE CALL THROUGH
19 THAT LOCAL SWITCH.

20 I THINK AN ISP -- ISP TRAFFIC TENDS TO BE
21 FAIRLY LARGE IN VOLUME AND, I THINK, FAIRLY STABLE
22 IN TERMS OF THE AMOUNT OF TRAFFIC THAT'S CARRIED ON

1 A TRUNK. I DON'T REALLY THINK THAT THERE'S ANY NEED
2 FOR THOSE CHARGES TO BE USAGE SENSITIVE.

3 I THINK A FIXED MONTHLY CHARGE IS
4 PERFECTLY CAPABLE OF REASONABLY COVERING THOSE COSTS
5 AS WELL AS THE OTHER FIXED COSTS OF THE SERVICE
6 PROVIDED TO THE ISP.

7 Q. DOES AMERITECH CHARGE ITS OWN CUSTOMERS FOR
8 THE COSTS OF TERMINATING TRAFFIC IN THEIR BASIC
9 LOCAL SERVICE RATES?

10 A. THERE IS NO BASIC LOCAL SERVICE RATE I'M
11 AWARE OF THAT EXPLICITLY DOES SO, OTHER THAN THERE
12 WAS A RELATIVELY MINOR OFFERING THAT WAS KIND OF AN
13 OPTIONAL SERVICE THAT DID THAT. BUT SETTING THAT
14 ASIDE, THERE'S NO SERVICE THAT EXPLICITLY DOES SO.

15 HOWEVER, THE WAY THAT LOCAL EXCHANGE
16 RATES HAVE GENERALLY BEEN SET IN THE PAST, THERE ARE
17 DIFFERENT LEVELS OF MARGINS SET FOR DIFFERENT KINDS
18 OF CUSTOMERS. FOR EXAMPLE, THE RATES TO BUSINESS
19 CUSTOMERS TEND TO BE HIGHER THAN THE RATES CHARGED
20 TO RESIDENTIAL CUSTOMERS FOR WHAT IS ESSENTIALLY THE
21 SAME SERVICE.

22 YOU COULD INFER FROM THAT PERHAPS THAT

1 THE BUSINESS CUSTOMERS ARE, IN GENERAL, COVERING
2 SOME OF THE COSTS OF THE RESIDENTIAL CUSTOMERS,
3 PERHAPS THE COSTS OF TERMINATING TRAFFIC, BUT I --
4 THE WORLD HAS NEVER BEEN -- THE WORLD OF
5 TELECOMMUNICATIONS AND TARIFFS HAS NEVER BEEN
6 DESIGNED AND DISTINCTLY SET TO THAT KIND OF A LEVEL
7 OF DETAIL SO THAT YOU COULD SAY IT IS COVERING THIS
8 COST AS OPPOSED TO THAT COST. BUT --

9 Q. SO -- I GUESS GETTING BACK TO MY QUESTION,
10 DOES -- AMERITECH DOESN'T CHARGE ANY OF ITS
11 CUSTOMERS AS PART OF THEIR BASIC LOCAL SERVICE RATE
12 PACKAGE FOR THE COSTS OF TERMINATING CALLS TO THAT
13 CUSTOMER, CORRECT?

14 MR. FRIEDMAN: OBJECTION, ASKED AND ANSWERED.

15 MR. ROMANO: I GUESS MY THOUGHT WAS I NEVER
16 REALLY GOT A --

17 JUDGE ZABAN: WELL, I THINK MR. ROMANO HAS TOLD
18 YOU THERE IS NO DIRECT CHARGE. IT'S MAYBE
19 INCIDENTALLY COVERED BY OTHER FACTORS.

20 MR. ROMANO: OKAY.

21 JUDGE ZABAN: BUT THE ANSWER IS NO.

22 BY MR. ROMANO:

1 Q. WELL, LET'S SEE. NOW, IF IT'S A -- IF --
2 MAYBE AMERITECH DOESN'T EXPLICITLY AT LEAST CHARGE
3 ANY OF ITS CUSTOMERS FOR RECEIVING SEVEN -DIGIT DIAL
4 CALLS AND LEVEL 3 AND CLECS ARE FORCED TO DO SO BY
5 VIRTUE OF HAVING AN ISP -BASED REGIME IN THE STATE OF
6 ILLINOIS, COULD YOU SEE HOW THAT WOULD PUT A CLEC AT
7 A COMPETITIVE DISADVANTAGE VIS -A-VIS AMERITECH?

8 A. I WOULD SAY --

9 MR. FRIEDMAN: LET ME STATE AN OBJECTION. THE
10 OBJECTION IS THAT THE QUESTION IS MAKING AN
11 ASSUMPTION THAT'S ACTUALLY CONTRARY TO THE EV IDENCE.

12 THE QUESTION IS ASSUMING THAT THE WITNESS
13 IS PROPOSING THAT LEVEL 3 START CHARGING ITS ISP
14 CUSTOMERS IN A WAY THAT WOULD INCLUDE AN EXPLICIT
15 TERMINATION CHARGE WHEN THE WITNESS SAID NOT
16 NECESSARILY SO.

17 HAVING STATED THE OBJECTION --

18 MR. ROMANO: I GUESS, YOUR HONOR, THERE'S STILL
19 A QUESTION OF IMPLICITLY INCLUDING THESE RATES IN
20 THE COSTS OF THE BASIC LOCAL SERVICE AND THAT'S WHAT
21 I'M TRYING TO GET AT.

22 JUDGE ZABAN: WELL, I THINK MR. FRIEDMAN IS

1 ALLEGING THAT YOU'RE MISTAKING FACTS, OKAY?

2 AND IN DEFENSE TO YOU, MR. FRIEDMAN, I
3 THINK THAT'S SOMETHING THAT YOUR WITNESS SHOULD BE
4 ABLE TO DISCERN AND ANSWER, OKAY?

5 ON THAT BASIS, MR. PANFIL, YOU MAY
6 ANSWER.

7 THE WITNESS: OKAY.

8 JUDGE MORAN: DO YOU RECALL THE QUESTION?

9 THE WITNESS: YEAH, I'M NOT SURE I RECALL
10 EXACTLY WHAT THE QUESTION WAS AT THIS POINT.

11 MR. ROMANO: PERHAPS THE BEST WAY TO DO IT WOULD
12 BE TO READ IT BACK RATHER THAN HAVE ME RESTATE IT.

13 (RECORD READ AS REQUESTED.)

14 BY MR. ROMANO:

15 Q. THOUGH AMERITECH DOESN'T EXPLICITLY CHARGE
16 ANY OF ITS CUSTOMERS FOR RECEIVING SEVEN -DIGIT
17 DIALED CALLS, BUT LEVEL 3 IS FORCED TO DO SO BY
18 VIRTUE OF HAVING AN ISP-BASED REGIME ADOPTED IN THE
19 STATE OF ILLINOIS, DON'T YOU THINK THAT WOULD PUT
20 LEVEL 3 AT A COMPETITIVE DISADVANTAGE VIS -A-VIS
21 AMERITECH?

22 A. THAT WOULD BE TRUE ONLY IF AMERITECH WERE --

1 IF YOU ASSUME, NUMBER ONE, THAT AMERITECH IS
2 CURRENTLY CHARGING ISPS RATES THAT ARE NOT HIGH
3 ENOUGH TO COVER THOSE COSTS, WHICH I THINK IS
4 UNLIKELY. NUMBER TWO, IT'S ASSUMING THAT AMERITECH
5 WOULD NOT IN THE FUTURE BE REQUIRED TO HAVE RATES OR
6 CHARGE RATES THAT WOULD COVER THOSE COSTS.

7 I THINK IF THERE WERE A SPECIFIC
8 REGULATORY REGIME THAT SAID THOSE COSTS HAD TO BE
9 COVERED BY THE RATES CHARGED TO THE ISP BY THE ISP'S
10 DIRECT SERVICE PROVIDER, THEN AMERITECH AS WELL AS
11 ALL OF THE OTHER COMPETITORS IN THE MARKETPLACE
12 WOULD HAVE TO ABIDE BY THAT REGULATION, THAT SYSTEM
13 OF BUSINESS, AND WOULD NOT BE ABLE TO CHARGE LESS
14 THAN ITS COST FOR PROVIDING THAT SERVICE.

15 Q. NOW, THE FCC HAS SAID THAT ISPS HAVE THE
16 RIGHT TO BUY SERVICE THROUGH BASIC LOCAL EXCHANGE
17 SERVICE TARIFFS, CORRECT?

18 A. YES.

19 Q. SO WHAT'S TO STOP AN ISP THEN FROM -- WHO
20 SEES THIS HIGHER-PRICED PRODUCT THAT'S INTENDED TO
21 COVER THE COSTS OF TERMINATION -- CALLS TERMINATED
22 TO THEM FROM JUST SPURNING THAT PRODUCT AND WALKING

1 AWAY AND BUYING A BASIC LOCAL EXCHANGE SERVICE
2 PRODUCT FROM AMERITECH OR ANOTHER CLEC INSTEAD?

3 A. I WOULD SUGGEST THAT GIVEN THE COMPETITIVE
4 NATURE OF BUSINESS SERVICES, MOST OF THE PUBLISHED
5 TARIFF RATES OF AMERITECH AS WELL AS COMPETITORS
6 LIKE LEVEL 3 -- THAT THE PUBLISHED TARIFF RATES TEND
7 TO HAVE RELATIVELY HIGH MARGINS BUILT INTO THEM HIGH
8 ENOUGH TO COVER THOSE KINDS OF COSTS, AND THAT
9 AMERITECH AND LEVEL 3 AND OTHER COMPETITORS PROVIDE
10 SERVICES TO ISPS AND TO OTHER SIMILAR LARGE
11 CUSTOMERS GENERALLY ON AN INDIVIDUAL CASE BASIS IN A
12 COMPETITIVE MARKETPLACE, AND THAT THERE REALLY ARE
13 NO BASIC TARIFFED SERVICES THAT ARE -- WOULD BE
14 BELOW THE COST OF SERVING AN ISP THAT ARE OUT THERE
15 FOR AN ISP TO GRAB UNDER THAT SCENARIO.

16 Q. NOW, THERE ARE MANY OTHER TYPES OF CUSTOMERS
17 OTHER THAN ISPS, MAIL ORDER COMPANIES OR DIRECT MAIL
18 MARKETERS, FOR EXAMPLE, WHO MAY GENERATE MORE
19 INBOUND CALLS THAN YOUR AVERAGE BUSINESS CUSTOMER,
20 RIGHT?

21 A. THERE CERTAINLY ARE SOME SUCH CUSTOMERS,
22 THOUGH, A LOT OF THEM WOULD TEND TO USE SOMETHING

1 LIKE 800 SERVICE RATHER THAN ESTABLISH MULTIPLE
2 LOCAL TELEPHONE NUMBERS LIKE ISPS DO UNDER THE
3 CURRENT ENVIRONMENT.

4 Q. BUT YOU HAVEN'T MADE ANY ASSESSMENT AS TO
5 WHETHER THESE OTHER -- WE'LL CALL THEM
6 INBOUND-CENTRIC CUSTOMERS, WHAT THE AVERAGE LENGTH
7 OF CALLS ARE WITH RESPECT TO THOSE CUSTOMERS,
8 CORRECT?

9 A. I HAVE MADE NO SUCH STUDY, IF YOU WILL, OR
10 HAVE NO SUCH INFORMATION.

11 Q. AND GIVEN THE RELATIVE SHARE OF THE MARKET
12 THAT AMERITECH HOLDS IN ILLINOIS, MIGHT IT BE SAFE
13 TO ASSUME THAT AMERITECH AT LEAST HOLDS A SOMEWHAT
14 SIZEABLE PERCENTAGE OF THE -- THESE KINDS OF
15 INBOUND-CENTRIC CUSTOMERS?

16 A. I REALLY CAN'T SAY FOR CERTAIN. THEY MAY BE
17 CUSTOMERS THAT ARE ATTRACTIVE TO CLECS IN THE SAME
18 WAY THAT ISPS ARE; THOUGH, AGAIN, I THINK FOR THE
19 MOST PART, A LOT OF THAT TENDS TO BE 800 -TYPE
20 SERVICE RATHER THAN "LOCAL" SERVICE AND -- WHICH IS
21 KIND OF A DIFFERENT STATE OF AFFAIRS.

22 Q. AMERITECH ISN'T PROPOSING ANY MODIFICATION,

1 IS IT, TO THE RATES THAT LEVEL 3 OR ANY OTHER
2 CARRIER MIGHT PAY FOR RECIPROCAL COMPENSATION IN THE
3 CONTEXT OF THESE OTHER HIGH INBOUND VOLUME
4 CUSTOMERS, CORRECT?

5 A. NOT THAT I'M AWARE OF, NO.

6 Q. BUT THESE OTHER HIGH VOLUME CUSTOMERS MIGHT
7 ALSO INDUCE THEIR OWN CUSTOMERS TO CALL EARLY AND
8 OFTEN TO DIAL IN AS MUCH AS POSSIBLE, RIGHT?

9 A. THERE ARE CERTAINLY SOME POTENTIAL KINDS OF
10 CUSTOMERS WHO HAVE BEEN THOUGHT OF TO DO THAT FOR
11 THINGS LIKE CHAT LINES.

12 BUT, AGAIN, MOST OF WHAT IS GENERALLY
13 TALKED ABOUT AS THE SORT OF TRADITIONAL INBOUND
14 MARKETING OR INBOUND -- PRIMARILY INBOUND USING KIND
15 OF CUSTOMER DOESN'T, IN MY VIEW, TEND TO USE LOCAL
16 EXCHANGE SERVICE AT ALL. THEY TEND TO USE THINGS
17 LIKE 800 SERVICE WHICH DOESN'T REALLY RAISE THE SAME
18 KINDS OF ISSUES THAT ISP TRAFFIC RAISES IN TERMS OF
19 COMPENSATION.

20 Q. WOULD IT BE SAFE TO SAY FROM THE WAY YOU'VE
21 STRUCTURED THIS POTENTIAL ISP PAYS PROPOSAL, THAT
22 AMERITECH VIEWS THE DISPUTE OVER RECIPROCAL

1 COMPENSATION AS HAVING SOMETHING TO DO WITH THE ISP,
2 THE ISP INDUCING CUSTOMERS TO MAKE THESE CALLS?

3 A. I WOULD CERTAINLY SEE (SIC) THAT THE FACT
4 THAT WE ARE TALKING ABOUT ISPS AND THE UNIQUE
5 POSITION THAT ISPS AND ISP TRAFFIC HOLD IN THE
6 DEVELOPMENT OF THE NETWORK AND THE GROWTH OF THE
7 NETWORK AND THE KIND OF GROWTH IN THAT TRAFFIC THAT
8 WE'VE SEEN TELLS ME THAT, YES, THE FACT THAT WE'RE
9 TALKING ABOUT ISP TRAFFIC AND THE UNIQUENESS OF THAT
10 TRAFFIC IS A SIGNIFICANT ISSUE HERE.

11 Q. DO YOU RECALL TESTIFYING IN A MICHIGAN
12 PROCEEDING, AND I'LL QUOTE, "THE DISPUTE BETWEEN
13 AMERITECH MICHIGAN AND THE CLECS OVER RECIPROCAL
14 COMPENSATION HAS NOTHING TO DO WITH THE ISPS"?

15 JUDGE MORAN: COUNSEL, I THINK YOU NEED TO GIVE
16 A US A FOUNDATION FOR THAT.

17 JUDGE ZABAN: NO, NO. I'M ASSUMING THAT YOU'RE
18 GOING WITH IMPEACHMENT; IS THAT CORRECT?

19 MR. ROMANO: THAT'S WHAT I'M TRYING TO DO. I'M
20 TRYING TO UNDERSTAND WHAT AMERITECH'S POSITION IS.

21 ON THE ONE HAND, THEY SEEM TO HAVE
22 PREVIOUSLY SAID THAT THE ISP HAS NOTHING TO DO WITH

1 THE DISPUTE. NOW, THEY'RE IMPOSING ISP IN THE
2 CENTER OF THE DISPUTE FOR RECIPROCAL COMPENSATION.
3 BY MR. ROMANO:

4 Q. DOES THAT TESTIMONY RING A BELL AT ALL?

5 A. DOES NOT SPECIFICALLY, BUT IT'S CERTAINLY
6 POSSIBLE THAT IN A CERTAIN CONTEXT, I MIGHT HAVE
7 SAID THAT.

8 Q. WOULD YOU AGREE THAT AN ISP CANNOT BE
9 REQUIRED TO PAY ACCESS CHARGES FOR INTERNET TRAFFIC
10 COMING TO IT EXCEPT AS A RESULT OF AN FCC
11 PROCEEDING?

12 A. I WOULD AGREE IN GENERAL THAT THEY CERTAINLY
13 CAN'T BE REQUIRED TO PAY INTERSTATE ACCESS CHARGES,
14 I.E., FCC-TARIFFED ACCESS CHARGES.

15 EXACTLY HOW A STATE TARIFF OR STATE
16 REGIME MIGHT BE STRUCTURED IS PERHAPS A LITTLE MORE
17 OPEN-ENDED, BUT, IN GENERAL, I THINK THAT WOULD BE A
18 TRUE STATEMENT. THEY CERTAINLY WOULDN'T, I WOULDN'T
19 THINK, BE CHARGED THE SAME ACCESS CHARGES AS
20 LONG-DISTANCE CARRIERS ARE CHARGED.

21 WHETHER A GIVEN STATE MIGHT, GIVEN THE
22 UNCERTAINTY OF THE WHOLE REGULATORY SYSTEM HERE

1 REGARDING ISP TRAFFIC, WANT TO CREATE A -- SORT OF
2 AN ACCESS-CHARGE LIKE STRUCTURE TO APPLY TO ISPS IS
3 KIND OF AN OPEN QUESTION.

4 THERE HAS BEEN, WITHIN THE LAST COUPLE OF
5 WEEKS AGO, AN ORDER ISSUED IN THE STATE OF MAINE
6 WHICH DID SOMETHING LIKE THAT, DID ESTABLISH OR SAY
7 THAT THEY WANTED ESTABLISHED A UNIQUE KIND OF A
8 SERVICE FOR ISPS THAT IS SOMEWHAT ACCESS LIKE.

9 SO FAR AS I KNOW, THAT HASN'T BEEN
10 IMPLEMENTED YET. AND IT'S OBVIOUSLY JUST AN ORDER,
11 SO IT HASN'T GONE THROUGH THE WHOLE POTENTIAL LEGAL
12 SET OF LOOPHOLES THAT IT MIGHT HAVE TO GO TO, BUT IT
13 DOES GIVE SOME IDEA OF THE AT LEAST POTENTIAL
14 FLEXIBILITY OF THOUGHT THAT'S OUT THERE.

15 Q. NOW, YOU JUST USED THE TERM ACCESS -CHARGE
16 LIKE TO DESCRIBE WHAT MIGHT HAPPEN HERE, RIGHT --

17 A. YES.

18 Q. -- IN YOUR PRIOR ANSWER?

19 ARE YOU THE SAME ERIC PANFIL THAT
20 TESTIFIED IN CASE 97-1577 TPCSS IN THE STATE OF OHIO
21 BEFORE THE PUBLIC UTILITIES COMMISSION THERE?

22 A. I HOPE SO. I'M NOT AWARE OF ANOTHER ONE.

1 Q. DO YOU RECALL SAYING IN THAT -- AND I CAN
2 GIVE YOU A COPY OF THIS, IF YOU LIKE -- AND I'LL
3 QUOTE FROM PAGE 11 OF YOUR DIRECT TESTIMONY IN THAT
4 DOCKET THAT THE ISSUE IS WHETHER ICG CAN OBTAIN FROM
5 AMERITECH OHIO ACCESS-CHARGE-LIKE COMPENSATION FOR
6 INTERNET TRAFFIC WHICH EMPHASIS (SIC) NEITHER
7 AMERITECH OHIO NOR ICG IS CURRENTLY ENTITLED TO
8 OBTAIN FROM THE INFORMATION SERVICE PROVIDERS
9 THEMSELVES."

10 MR. FRIEDMAN: WELL, I'M GOING TO STATE AN
11 OBJECTION. THE OBJECTION IS THIS:

12 THE QUESTION WOULD BE PROPER ONLY IF THIS
13 WERE AN ATTEMPT AT IMPEACHMENT. THERE IS NOTHING
14 IMPEACHING THERE BECAUSE THE WITNESS HAS NOT
15 SUGGESTED THAT AMERITECH ILLINOIS IS ENTITLED AT
16 THIS MOMENT TO RECOVER SUCH CHARGES. SO THERE'S NO
17 IMPEACHMENT HAPPENING, SO THE REFERENCE TO THE
18 STATEMENT FROM THE OTHER PROCEEDING IS --

19 MR. ROMANO: IF I MAY RESPOND, YOUR HONOR, THE
20 WITNESS SAID THAT THE CLEC MAY BE PERFECTLY
21 ENTITLED -- EXCUSE ME, WHOEVER THE LEC IS SERVING
22 THE ISP MAY BE ENTITLED TO OBTAIN ACCESS-CHARGE-LIKE

1 COMPENSATION FROM THE ISP, AND THAT WAS PART OF HIS
2 LAST ANSWER.

3 THIS TESTIMONY SAYS THAT NEITHER
4 AMERITECH -- NEITHER AMERITECH OHIO NOR THE CLEC
5 WOULD BE ENTITLED TO COLLECT ACCESS -CHARGE-LIKE
6 COMPENSATION. SO I BELIEVE IT IS IMPEACHMENT TO THE
7 EXTENT THAT MR. PANFIL HAS PREVIOUSLY SAID THAT A
8 LEC SERVING AN ISP COULD NOT OBTAIN SUCH
9 COMPENSATION.

10 JUDGE ZABAN: LET ME ASK YOU A QUESTION,
11 MR. PANFIL:

12 WAS THAT YOUR POSITION AT THE TIME THAT
13 YOU MADE THAT STATEMENT?

14 THE WITNESS: AGAIN, I'M SURE I MADE THAT
15 STATEMENT, BUT I THINK CONTEXTS PERHAPS ARE
16 DIFFERENT OR WHAT I MEANT AT THAT TIME BY THE
17 TERM -- RELATIVELY GENERAL TERM, I THINK,
18 ACCESS-LIKE COMPENSATION MAY HAVE BEEN SOMEWHAT
19 DIFFERENT.

20 JUDGE ZABAN: OKAY. GO AHEAD.
21 BY MR. ROMANO:

22 Q. PERHAPS YOU COULD EXPLAIN FOR ME HOW IT

1 WOULD HAVE BEEN DIFFERENT IN THAT TESTIMONY
2 VERSUS -- HAVE THERE BEEN ANY CHANGES IN LAW SINCE
3 1998 THAT MAKE YOU SEE THE ACCESS -CHARGE-LIKE
4 DEFINITION DIFFERENTLY?

5 A. WELL, I'M NOT SURE THAT ACCESS CHARGE LIKE
6 IS SOMETHING THAT I COULD SAY THAT THERE'S AN
7 EXPLICIT DEFINITION.

8 I THINK WHEN I MADE THAT STATEMENT IN
9 THAT PARTICULAR PIECE OF TESTIMONY -- IT PROBABLY
10 APPEARS IN A COUPLE OF OTHERS, TOO, FROM THAT SAME
11 VINTAGE, WHAT I MEANT IN THAT CASE BY ACCESS CHARGE
12 LIKE WAS USAGE SENSITIVE; THAT MY POINT THERE WAS
13 SIMPLY TRYING TO CONTRAST THE USAGE -SENSITIVE NATURE
14 OF THE COMPENSATION -- PARDON ME, COMPENSATION
15 RECEIVED BY THE CLEC FOR THOSE CALLS WITH THE
16 GENERALLY NONUSAGE -SENSITIVE REVENUE RECEIVED BY THE
17 ORIGINATING CARRIER FROM THE CUSTOMER.

18 I THINK WHEN I USED ACCESS CHARGE LIKE IN
19 MY DESCRIPTION OF THE MAINE ORDER, I WASN'T THINKING
20 THERE SPECIFICALLY OF USAGE SENSITIVE BECAUSE, IN
21 FACT, THE -- THAT ORDER PRESCRIBED A
22 NONUSAGE -SENSITIVE SERVICE.

1 BUT IN THAT SENSE, WHEN I SAID
2 ACCESS-LIKE IN THAT SENSE, I WAS SAYING ACCESS-LIKE
3 IN TERMS OF WHICH PARTY PAYS FOR THE SERVICE RATHER
4 THAN THE USAGE-SENSITIVE NATURE OF THE STRUCTURE,
5 WHICH IS WHAT A LOT OF PEOPLE THINK OF WHEN THEY
6 THINK OF ACCESS CHARGES.

7 BUT I THINK ACCESS-LIKE CAN HAVE A NUMBER
8 OF CONTEXTUAL MEANINGS, AND ONE OF THEM IS WHICH
9 PARTY PAYS, AND THE OTHER IS THE RATE STRUCTURE
10 ISSUE IN TERMS OF WHETHER IT'S USAGE SENSITIVE OR
11 NOT. AND I THINK THOSE WERE THE DIFFERENT ASPECTS
12 THAT I WAS GETTING AT BY THE SAME TERMINOLOGY.
13 BY MR. ROMANO:

14 Q. ON PAGE 11 OF YOUR VERIFIED STATEMENT, YOU
15 DISCUSS, CORRECT, THE ALLEGED SHORTFALL IN REVENUES
16 VERSUS COSTS IN TERMS OF LINES USED TO ACCESS THE
17 INTERNET; IS THAT RIGHT?

18 A. YES, IT IS.

19 Q. WOULD YOU -- YOU STATE THERE ON LINE 10, "IN
20 THE INTERESTS OF BOTH CONSERVATISM AND SIMPLICITY."

21 IN THE SEARCH FOR SIMPLICITY, ISN'T IT
22 TRUE THAT THE \$9.07 REVENUE FIGURE YOU CITE ON

1 LINE 13 DOESN'T INCLUDE ANY REVENUES ASSOCIATED WITH
2 VERTICAL FEATURES?

3 A. YES, THOUGH, I'M NOT SURE I WOULD CALL THAT
4 IN SEARCH OF SIMPLICITY.

5 I THINK THAT WAS A DECISION MADE BASED ON
6 THE BELIEF THAT CUSTOMERS USING A SECOND LINE FOR
7 INTERNET ACCESS WOULD HAVE NO NEED FOR THE VERTICAL
8 FEATURES AND THAT THEY GENERALLY WOULD NOT AND DO
9 NOT ORDER VERTICAL FEATURES FOR THAT KIND OF LINE.

10 Q. DO YOU HAPPEN TO KNOW WHAT PERCENTAGE OF
11 REVENUES PER LINE ARE ASSOCIATED WITH VERTICAL
12 FEATURES IN THE STATE OF ILLINOIS FOR AMERITECH?

13 A. NO, I WOULD NOT.

14 Q. WOULD YOU EXPECT IT'D BE A RATHER HIGH SUM,
15 THE AVERAGE REVENUES ON ALL LINES ACROSS AMERITECH
16 ILLINOIS SERVICE AREA?

17 A. I WOULD CERTAINLY EXPECT IT TO BE A
18 SIGNIFICANT AMOUNT, WHETHER YOU'D CHARACTERIZE IT AS
19 HIGH OR LOW, BUT IT WOULD BE MORE THAN ROUNDING
20 ERROR, CERTAINLY.

21 Q. WHAT ABOUT PROFIT MARGIN ON THE SE VERTICAL
22 FEATURES AS A PERCENTAGE OF THE TOTAL ON THE LINE?

1 A. WELL, CERTAINLY, IF, BY THAT, YOU MEAN ARE
2 THE MARGINS, I.E. THE PRICE OVER COST, HIGHER ON
3 VERTICAL FEATURES AS SEPARATE ITEMS AS COMPARED TO,
4 SAY, THE PRICE VERSUS COST OF THE ACCESS LINE
5 ITSELF, I WOULD SAY THAT THE MARGINS FOR THE
6 VERTICAL FEATURES ARE CERTAINLY A LOT HIGHER THAN
7 THE MARGINS FOR AN ACCESS LINE WHICH MAY HAVE IN
8 SOME CASES NEGATIVE MARGINS.

9 JUDGE ZABAN: I'M SORRY.

10 MR. PANFIL, IS THAT NEGATIVE MARGINS TRUE
11 FOR JUST ISP LINES OR IS THAT TRUE FOR ALL LINES?

12 THE WITNESS: I WAS SPEAKING IN GENERAL IN TERMS
13 OF WHETHER THE RATE PAID BY A CUSTOMER FOR, YOU
14 KNOW, A BASIC ACCESS LINE IN ALL CASES COVERS THE
15 COST OF THAT ACCESS LINE REGARDLESS OF WHAT THAT
16 CUSTOMER'S USING IT FOR.

17 JUDGE ZABAN: IN OTHER WORDS, SO IT ISN'T
18 NECESSARILY SOMETHING THAT'S INDICATIVE TO JUST ISP
19 LINES. IT'S SOMETIMES SOMETHING THAT MAY REQUIRE
20 FOR RESIDENTIAL LINES, FOR EXAMPLE; IS THAT CORRECT?

21 THE WITNESS: YES, LOOKING AT THE -- YOU KNOW,
22 ONLY THE LINE, ONLY THE BASIC CONNECTION AND NOT AT

1 ANY OF THE OTHER SERVICES THAT ARE GENERALLY OR
2 FREQUENTLY USED BY THE AVERAGE CUSTOMER.

3 JUDGE ZABAN: SO THEN IT'S LIKE THE MONEY ON
4 CARS IS MADE ON THE FRILLS; IS THAT CORRECT.

5 THE WITNESS: AT LEAST IN SOME CASES, YES.

6 JUDGE ZABAN: IN SOME CASES.

7 I HAD ONE OTHER QUESTION, AND EXCUSE ME,
8 MR. ROMANO.

9 MR. ROMANO: THAT'S FINE.

10 JUDGE ZABAN: IN THE INTERESTS OF BOTH
11 CONSERVATISM AND SIMPLICITY AND YOU WERE TALKING
12 ABOUT WHAT PERCENTAGE OF THE PEOPLE WHO HAVE
13 PURCHASED LINES FOR ISP HAVE PURCHASED DEDICATED
14 LINES AS OPPOSED TO PERCENTAGE OF THOSE PEOPLE THAT
15 USE -- ALREADY USE EXISTING LINES.

16 THE WITNESS: I DON'T KNOW THE ANSWER TO THAT
17 EXPLICITLY.

18 I WOULD SAY, YOU KNOW, OUR BELIEF WOULD
19 BE THAT IT'S PROBABLY A RELATIVELY SMALL PERCENTAGE,
20 I.E., MAYBE YOU'RE TALKING ABOUT 10 PERCENT OR
21 SOMETHING LIKE THAT.

22 I WOULD BE SURPRISED AT THIS POINT IN

1 TIME IF IT'S HIGHER THAN ABOUT 10 PERCENT OR SO.

2 JUDGE ZABAN: THAT BOUGHT DEDICATED LINES; IS
3 THAT CORRECT?

4 THE WITNESS: THAT WOULD USE A DEDICATED LINE
5 FOR INTERNET ACCESS AS OPPOSED TO USING A LINE THAT
6 THEY USE FOR OTHER PURPOSES.

7 JUDGE ZABAN: OKAY.

8 THE WITNESS: AGAIN, SPEAKING FOR RESIDENTIAL
9 CUSTOMERS.

10 JUDGE ZABAN: AND BUSINESS?

11 THE WITNESS: BUSINESS IS A LITTLE BIT TOUGHER
12 TO GUESS BECAUSE YOU'RE TALKING A LOT OF TIMES
13 ABOUT, YOU KNOW, THE MAJORITY OF BUSINESS CUSTOMERS
14 HAVE MULTIPLE LINES TO BEGIN WITH. SO IT'S
15 CERTAINLY POSSIBLE THAT IF YOU GOT A CUSTOMER WITH
16 -- THAT'S ALREADY GOT FIVE OR SIX LINES, THEY MAY
17 VERY WELL NEED A SEPARATE LINE FOR INTERNET ACCESS.

18 IT'S REALLY GOING TO DEPEND ON THAT
19 SPECIFIC BUSINESS'S SETUP, AND ITS KIND OF A LOT
20 HARDER TO GAUGE FROM A THEORETICAL STANDPOINT WHAT
21 THAT MIGHT BE.

22 JUDGE ZABAN: THANK YOU.

1 GO AHEAD.

2 BY MR. ROMANO:

3 Q. THANK YOU.

4 IS IT SAFE TO SAY FROM YOUR TESTIMONY,
5 THAT YOU'RE OF THE OPINION THAT CARRIERS SHOULD BE
6 COMPENSATED FOR THE PRECISE NATURE OF THE COSTS
7 ASSOCIATED WITH THE SERVICES THEY PROVIDE; IS
8 THAT -- AS A GENERAL STATEMENT, WOULD YOU AGREE WITH
9 THAT?

10 A. WELL, AT LEAST I WOULD SAY, AS A GENERAL
11 STATEMENT, THAT IT WOULD CERTAINLY BE BETTER IF
12 CARRIERS WERE COMPENSATED ON A MORE PRECISE BASIS
13 THAN THEY ARE TODAY.

14 I THINK THERE'S ALWAYS A TRADE-OFF
15 BETWEEN PRECISION AND ADMINISTERABILITY THAT NEEDS
16 TO BE DONE AS WELL AS OB -- SOME OBVIOUS PUBLIC
17 INTEREST AVERAGING KINDS OF THINGS THAT COME INTO
18 IT, BUT THERE'S CERTAINLY ROOM FOR IMPROVEMENT.

19 Q. ON PAGE 20 OF YOUR TESTIMONY, LINES 1
20 THROUGH 11, YOU'RE PROPOSING THERE A CAP, I BELIEVE,
21 ON THE AMOUNT OF COMPENSATION -- RECIPROCAL
22 COMPENSATION THAT AMERITECH, FOR EXAMPLE, MIGHT BE

1 REQUIRED TO PAY TO LEVEL 3 FOR TERMINATION OF
2 ISP-BOUND TRAFFIC, CORRECT?

3 A. YES, THAT'S IN THE CONTEXT OF A PROPOSAL
4 REGARDING A PHASE DOWN, YES.

5 Q. DOESN'T YOUR CAP PROPOSAL CONTRADICT THE
6 IDEA THAT THERE SHOULD BE -- CARRIERS SHOULD BE ABLE
7 TO RECEIVE COMPENSATION FOR THE PRECISE COSTS OF THE
8 SERVICES THEY PROVIDE?

9 I MEAN, UNDER YOUR PROPOSAL,
10 NOTWITHSTANDING HOW MUCH TRAFFIC A PARTICULAR CLEC
11 MIGHT TERMINATE, ITS ABILITY TO RECOVER THOSE COSTS
12 IS GOING TO BE CAPPED BY WHATEVER AMOUNT YOU
13 SPECIFY?

14 A. WELL, AGAIN, MY -- THE STARTING ASSUMPTION
15 THAT LEADS INTO THIS IS THAT THE CLEC OR WHOEVER
16 REALLY OUGHT TO BE RECEIVING NO COMPENSATION AT ALL.

17 THE CAP, AS I PROPOSED IT, IS IN
18 OPERATION ONLY DURING A TRANSITIONAL PERIOD THAT I
19 DESCRIBED THAT WAS FOR THE CASE -- SITUATION WHERE A
20 COMMISSION MIGHT DECIDE THAT, WHILE IT FELT THAT A
21 SYSTEM WHERE THERE WAS NO INTER-CARRIER COMPENSATION
22 FOR THIS TRAFFIC WAS DESIRABLE IN THE LONG RUN, THAT

1 THERE MIGHT BE A NEED FOR A SHORT -RUN TRANSITION
2 FROM THE CURRENT SITUATION WHERE SUCH COMPENSATION
3 IS BEING PAID TO THE ULTIMATE AND BETTER, IN MY
4 VIEW, SITUATION WHERE SUCH COMPENSATION WAS NOT
5 BEING PAID AND THAT THE CAPPING WAS MERELY A PART OF
6 THAT PHASE-DOWN FROM THE PERIOD OF PAYMENT OF
7 COMPENSATION TO THE PERIOD OF NO PAYMENT OF
8 COMPENSATION AS SUCH.

9 OBVIOUSLY, THE PHASE -DOWN ITSELF IS
10 SOMEWHAT ARBITRARY AND IS NOT COST-BASED, AND THE
11 CAP AS PART OF THAT IS OBVIOUSLY NOT COST -BASED.

12 Q. I HAVE JUST A COUPLE OF QUESTIONS ON -- ON
13 YOUR ISSUE 2, THE QUESTION OF, I GUESS, IT'S
14 ASSIGNMENT OF NXX CODES, IT'S BEEN CALLED AT LEAST
15 IN SOME INSTANCES OR DEPLOYMENT OF NXX CODES. YOU
16 IN SOME WAYS ANALOGIZE OR STATE THAT THE APPENDIX
17 FGA RELATES TO THIS ISSUE.

18 COULD YOU TELL ME HOW FGA CALLS ARE
19 TREATED FOR SEPARATIONS (SIC) PURPOSES AT THE
20 FEDERAL LEVEL?

21 A. IN GENERAL TERMS, I CAN TELL YOU HOW FGA
22 CALLS ARE TREATED FOR SEPARATIONS PURPOSES, AS I

1 UNDERSTAND IT.

2 FGA CALLS ARE A FORM OF ACCESS SERVICE,
3 AND I BELIEVE, GENERALLY, THE JURISDICTION
4 IDENTIFICATION OF THE TRAFFIC OVER FEATURE
5 GROUP A -- FGA STANDS FOR FEATURE GROUP A -- IS DONE
6 THROUGH THEIR REPORTING OF WHAT'S CALLED A PERCENT
7 INTERSTATE USE; THAT IS, THE NORMAL NETWORK TRACKING
8 SYSTEMS AND BILLING SYSTEMS CAN'T REALLY TELL WHEN
9 THOSE KIND OF CALLS ARE INTERSTATE OR INTRASTATE.

10 AND AS PART OF THE ACCESS CHARGE REGIME,
11 THE FCC ESTABLISHED WHAT'S CALLED A PERCENT
12 INTERSTATE USE, OR PIU REPORTING, THAT -- WHERE THE
13 CARRIER, THAT IS, THE CUSTOMER FOR THE FEATURE GROUP
14 A, REPORTS WHAT PERCENTAGE IT BELIEVES OF THE
15 TRAFFIC IS INTERSTATE AND WHAT PERCENTAGE IS
16 INTRASTATE OF THAT TRAFFIC.

17 AND THE SEPARATIONS IS DONE ON THAT BASIS
18 PRETTY MUCH IN LINE WITH THE BILLING OF THE TRAFFIC
19 THAT'S DONE ON THAT SAME BASIS.

20 Q. AND FOR ISP-BOUND TRAFFIC, ISN'T IT TRUE
21 THAT, CURRENTLY, LOCAL EXCHANGE CARRIERS ARE
22 DIRECTED TO REPORT ON THAT AS IF IT WERE LOCAL FOR

1 SEPARATIONS PURPOSES?

2 A. THEY ARE CERTAINLY DIRECTED TO REPORT IT AS
3 INTRASTATE. WHETHER IT'S REPORTED AS LOCAL OR
4 WHETHER EVEN, IN SOME CASE, THE TERM LOCAL HAS A
5 MEANING FOR SEPARATIONS PURPOSES DOESN'T ALWAYS
6 (SIC).

7 Q. IN APPENDIX FX, AMERITECH HAS SOME
8 MECHANISMS IDENTIFIED FOR -- OR WHEREBY IT WOULD --
9 ONE PARTY WOULD COMPENSATE THE OTHER PARTY FOR THE
10 COSTS ASSOCIATED WITH TRANSPORTING AND ORIGINATING
11 THIS FX OR FX-LIKE TRAFFIC, RIGHT?

12 A. YES.

13 Q. AND THIS WOULD APPLY WHENEVER LEVEL 3'S
14 CUSTOMER WAS PHYSICALLY LOCATED OUTSIDE OF THE SAME
15 LOCAL CALLING AREA AS THE AMERITECH ORIGINATING
16 CUSTOMER?

17 A. RIGHT, WHICH IS BASICALLY WHAT FX MEANS.

18 Q. AND AMERITECH DEFINES LOCAL TRAFFIC SUCH
19 THAT A CUSTOMER -- BOTH CUSTOMERS MUST BE PHYSICALLY
20 LOCATED OF THE SAME LOCAL CALLING AREA OF THE
21 AGREEMENT, CORRECT?

22 A. YES.

1 Q. SO TO SUMMARIZE THEN, ESSENTIALLY, THE WAY A
2 COMPENSATION MECHANISM YOU HAVE STRUCTURED WOULD
3 WORK OUT, LEVEL 3 MIGHT HAVE TO PAY AMERITECH
4 SOMETHING FOR DELIVERING CALLS TO BE HANDED OFF TO
5 THESE LEVEL 3 VIRTUAL NXX OR FX-LIKE CUSTOMERS, AND
6 LEVEL 3, IN TURN, WOULD NOT BE ENTITLED TO BE PAID
7 BY AMERITECH RECIPROCAL COMPENSATION OR ANY
8 COMPENSATION AT ALL FOR ACTUALLY DELIVERING THOSE
9 CALLS TO THE CUSTOMERS, RIGHT?

10 A. RIGHT. SINCE THEY ARE NOT LOCAL CALLS, THEY
11 WOULD NOT FALL UNDER THE RECIPROCAL COMPENSATION
12 REQUIREMENT OF THE ACT.

13 Q. SO, IN SHORT, LEVEL 3 WOULD HAVE TO PAY
14 AMERITECH SOMETHING FOR HELPING AMERITECH COMPLETE
15 THE CALLS, BUT AMERITECH WOULDN'T PAY LEVEL 3
16 ANYTHING TO HELP AMERITECH COMPLETE THE CALLS
17 GENERATED BY ITS END USERS?

18 A. RIGHT. THOSE COSTS WOULD BE ATTRIBUTABLE TO
19 THE FOREIGN EXCHANGE OR FOREIGN EXCHANGE-LIKE
20 SERVICE THAT IS PROVIDED BY LEVEL 3 TO ITS CUSTOMER
21 JUST AS THOSE SAME CALLS -- OR PARDON ME, SAME COSTS
22 OR SIMILAR COSTS ARE RECOVERED BY AMERITECH FROM ITS

1 FOREIGN EXCHANGE CUSTOMER WHEN IT PROVIDES A
2 COMPETITIVE OR FUNCTIONALLY SIMILAR SERVICE.

3 Q. AND THE APPENDIX REFERS TO BOTH FX AND
4 FX-LIKE CALLS, CORRECT?

5 A. YES.

6 Q. AND FGA AND FGA-LIKE CALLS?

7 A. YES, IT DOES, AS I UNDERSTAND IT.

8 Q. DOES AMERITECH HAVE ANY CONTRACTS WHERE IT
9 PURCHASES SERVICES FROM A COMPANY FOR BOTH THOSE
10 SERVICES AND SERVICES LIKE THOSE SERVICES IN QUOTES
11 THAT YOU'RE AWARE OF?

12 A. WELL, I MEAN, I'M NOT AWARE OF ANY SUCH
13 THING, BUT I'M NOT SURE THAT THAT'S ANALOGOUS TO THE
14 PARTICULAR SITUATION HERE.

15 WE'RE NOT REALLY TALKING ABOUT FX OR
16 FX-LIKE SERVICES BEING THOSE THAT EITHER AMERITECH
17 PROVIDES TO LEVEL 3 OR LEVEL 3 PROVIDES TO
18 AMERITECH. WHAT WE'RE TALKING ABOUT IS A GENERAL
19 CLASS OF SERVICES THAT EITHER AMERITECH OR LEVEL 3
20 PROVIDES TO ITS CUSTOMERS, AND I THINK THOSE
21 CLASSIFICATIONS ARE CLASSIFICATIONS THAT ARE FAIRLY
22 WELL UNDERSTOOD IN THE INDUSTRY AS TO WHAT KIND OF

1 SERVICES WE ARE TALKING ABOUT AS BEING FX OR FX -LIKE
2 OR FEATURE GROUP A OR FEATURE GROUP A -LIKE. THEY
3 ARE FUNCTIONALLY SIMILAR SUBSTITUTABLE SERVICES NO
4 MATTER WHAT YOU NAME THEM OR CALL THEM IN YOUR
5 TARIFFS OR MARKETING MATERIALS.

6 Q. BUT FGAS ARE DEFINED IN THE CONTRACT, AND FX
7 LIKE AND FGA-LIKE ARE NOT DEFINED IN THE CONTRACT,
8 CORRECT?

9 A. FRANKLY, I'M NOT CERTAIN WHETHER FX AND FGA,
10 PER SE, ARE DEFINED IN THE CONTRACT OR NOT.

11 I UNDERSTAND FROM HEARING EARLIER
12 TESTIMONY THAT FGA-LIKE AND FX-LIKE ARE NOT DEFINED,
13 THOUGH, AGAIN, I THINK THOSE ARE PRETTY WELL
14 UNDERSTOOD TERMS, AS I UNDERSTAND IT, IN THE
15 INDUSTRY.

16 Q. HOW MANY INTERCONNECTION AGREEMENTS IN
17 ILLINOIS TODAY CONTAIN AN APPENDIX FX OR AN APPENDIX
18 FGA, DO YOU KNOW?

19 A. I DO NOT.

20 Q. DO YOU KNOW IF THERE ARE ANY RIGHT NOW?

21 A. I DON'T KNOW IF THERE ARE ANY RIGHT NOW.

22 Q. DO YOU KNOW IF THERE'S ANYTHING IN THE

1 AMERITECH'S TARIFF NO. 20 THAT WOULD PROVIDE FOR
2 THIS KIND OF COMPENSATION THAT YOU'VE GOT IN
3 APPENDIX FX AND FGA?

4 A. I DON'T KNOW IF THERE'S ANYTHING DIRECTLY.
5 AND I JUST MAYBE SLIGHTLY CORRECT MY
6 EARLIER ANSWER. I KNOW THAT OUR EARLIER
7 INTERCONNECTION AGREEMENTS DID CALL FOR A, YOU KNOW,
8 SEPARATE AGREEMENT OR SEPARATE ARRANGEMENT FOR
9 DEALING WITH THE COMPENSATION RELATED TO FEATURE
10 GROUP A, AS IT DID WITH OTHER ACCESS SERVICES AS
11 THEY WERE DEFINED IN THE AGREEMENTS.

12 I'M PRETTY SURE THAT SOME OF THOSE
13 AGREEMENTS HAD SIDE AGREEMENTS OR RELATED AGREEMENTS
14 THAT DID DEAL WITH HOW FEATURE GROUP A SHOULD BE
15 TREATED. THEY WERE NOT, PER SE, CALLED A FEATURE
16 GROUP A APPENDIX -- PARDON ME, A FEATURE GROUP A OR
17 FGA APPENDIX, BUT I KNOW THAT SOME OF THE EARLIER
18 AGREEMENTS DID ACCOMMODATE THE TREATMENT OF FEATURE
19 GROUP A.

20 I'M NOT SURE THAT THE SAME IS TRUE OF FX,
21 HOWEVER.

22 Q. SO PEOPLE REACHED SIDE AGREEMENTS OR SORT OF

1 AMENDED AGREEMENTS AND FILED THOSE WITH THE
2 COMMISSION FOR THESE SERVICES?

3 A. I BELIEVE SO, YES.

4 I MEAN, THERE HAVE BEEN AGREEMENTS FOR
5 TREATING SOME OF THAT STUFF FEATURE GROUP A BETWEEN
6 DIFFERENT ILECS FOR A NUMBER OF YEARS THAT THERE ARE
7 PRETTY FAIRLY STANDARD, I THINK, ARRANGEMENTS FOR
8 DEALING WITH THOSE THAT HAVE BEEN DEVELOPED OVER THE
9 YEARS SINCE THE ACCESS CHARGE REGIME WAS ESTABLISHED
10 BY THE FCC, AND I THINK THOSE HAVE PRETTY WELL BEEN
11 FOLLOWED. I THINK THAT'S PRETTY MUCH WHAT THE FGA
12 APPENDIX THAT WE'RE OFFERING DOES FOR THAT
13 PARTICULAR KIND OF TRAFFIC.

14 Q. DO YOU HAPPEN TO KNOW HOW MANY OF THOSE
15 AGREEMENTS THAT HAVE BEEN STRUCK CONTAIN TERMS
16 FGA-LIKE OR FX-LIKE?

17 A. NO, I DO NOT.

18 Q. DO YOU KNOW IF ANY DO?

19 A. SO FAR AS I KNOW, YOU KNOW, I CAN'T SAY THAT
20 ANY DO.

21 MR. ROMANO: I HAVE NO FURTHER QUESTIONS.

22 THE WITNESS: I HOPE THAT'S A CLEAR ANSWER.

1 MS. NAUGHTON: STAFF HAS NO QUESTIONS.
2 JUDGE MORAN: STAFF HAS NO QUESTIONS?
3 MS. NAUGHTON: (SHAKING HEAD.)
4 JUDGE ZABAN: MR. FRIEDMAN, DO YOU HAVE ANY
5 REDIRECT?
6 MR. FRIEDMAN: MAY I TAKE JUST 30 SECONDS?
7 JUDGE MORAN: SURE .
8 MR. FRIEDMAN: NO QUESTIONS ON REDIRECT.
9 JUDGE MORAN: OKAY.
10 JUDGE ZABAN: HOW MANY MORE WITNESSES DO YOU
11 HAVE, MR. FRIEDMAN?
12 MR. FRIEDMAN: THREE. I WANT TO SAY THREE.
13 MR. ROMANO: I BELIEVE THAT'S RIGHT. THERE ARE
14 THREE.
15 JUDGE MORAN: OKAY. MR. PANFIL, YOU'RE
16 EXCUSED.
17 JUDGE ZABAN: MR. PANFIL, THANK YOU VERY MUCH.
18 JUDGE MORAN: THANK YOU VERY MUCH.
19 JUDGE ZABAN: WE CAN BREAK NOW FOR LUNCH OR WE
20 CAN ATTEMPT TO GET ONE MORE WITNESS IN. I DON'T
21 KNOW.
22 (DISCUSSION OFF THE RECORD.)

1 JUDGE ZABAN: WE CAN PROCEED.
2 (WHEREUPON, AMERITECH
3 EXHIBIT NO. 4.0 WAS
4 MARKED FOR IDENTIFICATION
5 AS OF THIS DATE.)
6 (WITNESS SWORN.)
7 TIMOTHY OYER,
8 CALLED AS A WITNESS HEREIN, HAVING BEEN FIRST DULY
9 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:
10 DIRECT EXAMINATION
11 BY
12 MR. COVEY:
13 Q. MR. OYER, DO YOU HAVE BEFORE YOU WHAT'S BEEN
14 MARKED FOR IDENTIFICATION AS AMERITECH ILLINOIS 4.0?
15 A. YES.
16 Q. AND DOES THIS CONSIST OF 24 PAGES OF TYPED
17 QUESTIONS AND ANSWERS AS WELL AS FOUR ATTACHMENTS?
18 A. YES.
19 Q. WAS THIS TESTIMONY PREPARED BY YOU OR AT
20 YOUR DIRECTION?
21 A. YES.
22 Q. DO YOU HAVE ANY CORRECTIONS TO THE TESTIMONY

1 AT THIS TIME?

2 A. YES, I DO.

3 ON PAGE 7 -- I APOLOGIZE. IT'S NOT
4 NUMBERED -- ISSUE 16, DARK FIBER, IS ACTUALLY ISSUE
5 24, DARK FIBER.

6 ON PAGE 12, THE QUESTION, "WOULD
7 LEVEL 3'S PROPOSAL TO LENGTHEN THE NOTICE PERIOD
8 REQUIRED FOR AMERITECH ILLINOIS TO REVOKE DARK FIBER
9 FROM"... AND AFTER "FROM," INSERT "LEVEL 3
10 THREATEN AMERITECH ILLINOIS' ABILITY TO PROVIDE
11 UNIVERSAL SERVICE?"

12 Q. WITH THOSE CORRECTIONS, IS THIS THE
13 TESTIMONY YOU WISH TO SUBMIT IN THIS PROCEEDING?

14 A. YES, IT IS.

15 MR. COVEY: I MOVE TO ADMIT AMERITECH ILLINOIS
16 4.0 AND ATTACHMENTS 1 THROUGH 4 SUBJECT TO CROSS.

17 JUDGE MORAN: ANY OBJECTION?

18 MR. PENA: NO OBJECTIONS, YOUR HONOR.

19 JUDGE MORAN: OKAY. IT WILL BE ADMITTED SUBJECT
20 TO CROSS.

21 THANK YOU.

22

1 (WHEREUPON, AMERITECH
2 EXHIBIT NO. 4.0 WAS
3 ADMITTED INTO EVIDENCE AS
4 OF THIS DATE.)

5 CROSS-EXAMINATION
6 BY

7 MR. PENA:

8 Q. MR. OYER, GOOD AFTERNOON. IT IS AFTERNOON.
9 PARDON ME.

10 I'D LIKE TO TALK TO YOU ABOUT UNBUNDLED
11 DEDICATED TRANSPORT FIRST. IT'S ISSUE 22.

12 A. YES.

13 Q. AND I WAS WONDERING IF YOU COULD TURN YOUR
14 ATTENTION TO THE FIRST PAGE OF ATTACHMENT 3.

15 A. YES.

16 Q. I'D LIKE TO WALK THROUGH THAT EXHIBIT WITH
17 YOU.

18 A. SURE.

19 Q. THIS EXHIBIT DEPICTS TWO AMERITECH WI RE
20 CENTERS, WIRE CENTER A AND WIRE CENTER B, CORRECT?

21 A. YES.

22 Q. WITH THE COLLOCATION CAGE IN EACH WIRE

1 CENTER --

2 A. YES.

3 Q. -- IS THAT RIGHT?

4 NOW, AM I CORRECT TO ASSUME THAT YOUR

5 ATTACHMENT IS -- OR PARDON ME. STRIKE THAT.

6 AM I CORRECT TO ASSUME THAT THE CLEC CAGE

7 THAT YOU DEPICT IN EACH OF THESE WIRE CENTERS DOES

8 NOT INCLUDE A CLEC SWITCH IN ITS COLLOCATION

9 FACILITIES NOT NECESSARILY A SWITCH?

10 A. NO, IT'S NOT A CLEC SWITCH, BUT THAT'S IN AN

11 AMERITECH ILLINOIS WIRE CENTER --

12 Q. CORRECT.

13 A. -- SO WHICH MAKES IT -- MAKES UNBUNDLED

14 DEDICATED TRANSPORT AVAILABLE AT THAT WIRE CENTER,

15 YES.

16 Q. BUT, AGAIN, IT'S NOT -- YOU'RE NOT DEPICTING

17 A CLEC SWITCH. IT IS AN AMERITECH WIRE CENTER?

18 A. YES.

19 Q. OKAY. NOW, LET'S TAKE THE CASE OF LEVEL 3

20 HAVING A COLLOCATION ARRANGEMENT WITH FOCAL, AND

21 ASSUME FURTHER WITH ME THAT FOCAL HAS AN

22 INTERCONNECTION AGREEMENT WITH AMERITECH.

1 DO YOU -- ARE YOU WITH ME?

2 A. OKAY. YES.

3 Q. NOW, AM I CORRECT IN STATING THAT AMERITECH
4 WOULD OBJECT TO PROVIDING LEVEL 3 UNBUNDLED
5 DEDICATED TRANSPORT IN THAT INSTANCE WHERE LEVEL 3
6 IS COLLOCATING IN --

7 A. OKAY. TO A FOCAL LOCATION?

8 Q. CORRECT.

9 A. YES, BECAUSE THE FCC ORDER IS VERY SPECIFIC
10 IN THAT IT SAYS WIRE CENTERS OR SWITCHES OWNED BY
11 THE ILEC OR THE REQUESTING CARRIER, OF WHICH THEN
12 FOCAL WOULD BE NEITHER.

13 I MEAN, FOCAL IS THE ONE THAT OWNS THAT
14 SWITCH OR WIRE CENTER, AND IT WOULD BE LEVEL 3 THEN
15 REQUESTING. IT SEEMS PRETTY STRAIGHTFORWARD TO ME
16 THAT THAT'S NOT THE FCC'S INTENT IN PROVIDING THAT.

17 IT ALSO ALLOWS FOR ACCESS SERVICES OR
18 WHATEVER TO BE PROVIDED OVER SOMETHING. AND, AGAIN,
19 I DON'T THINK THAT IS THE INTENT OF THE FCC IN
20 PROVIDING UNBUNDLED DEDICATED TRANSPORT.

21 Q. STAYING WITH THE SAME HYPOTHETICAL, IN THAT
22 INSTANCE, YOU WOULD PROVIDE UNBUNDLED DEDICATED

1 TRANSPORT TO FOCAL, WOULD YOU NOT?

2 A. IF THEY HAD A SWITCH OR A WIRE CENTER AT
3 THAT LOCATION, YES.

4 Q. YES, YOU WOULD.

5 AND IS THERE ANYTHING THAT WOULD KEEP
6 FOCAL FROM PROVIDING THAT TRANSPORT TO LEVEL 3
7 THROUGH A CROSS CONNECT?

8 A. NO, I WOULDN'T SEE ANYTHING THAT WOULD --
9 THAT -- FOR LOCAL SERVICE, I WOULDN'T SEE ANYTHING
10 THAT WOULD PREVENT THAT. OTHER THAN THAT, I'M NOT
11 SURE.

12 Q. WELL, LET ME ASK YOU THIS:

13 YOU DON'T -- AMERITECH WILL NOT PROVIDE
14 UNBUNDLED DEDICATED TRANSPORT TO LEVEL 3 AT THAT
15 FOCAL LOCATION BECAUSE OF YOUR READING OF THE FCC'S
16 RULE AND -- BUT WHAT ABOUT TECHNICAL FEASIBILITY?

17 WOULD IT BE TECHNICALLY FEASIBLE FOR
18 AMERITECH TO PROVIDE LEVEL 3 UNBUNDLED DEDICATED
19 TRANSPORT AT THAT FOCAL WIRE CENTER?

20 A. IT WOULD BE TECHNICALLY FEASIBLE TO PROVIDE
21 UNBUNDLED DEDICATED TRANSPORT ANYWHERE THAT THERE
22 ARE FACILITIES.

1 Q. OKAY. LET ME ADDRESS THE FCC DEFINITION YOU
2 ACTUALLY CITED IN YOUR TESTIMONY, I BELIEVE, ON
3 PAGE 4.

4 A. YES.

5 Q. YOU TESTIFIED AT THE -- THE DEFINITION'S ON
6 PAGE 4.

7 ON PAGE 5, YOU ACTUALLY TESTIFIED THAT
8 THE FCC DEFINITION STATES THAT UNBUNDLED DEDICATED
9 TRANSPORT CONNECTS THE INCUMBENT CARRIER'S AND
10 REQUESTING CARRIER'S WIRE CENTERS AND/OR SWITCHES.

11 A. YES.

12 Q. NOW, THE RULE THAT'S CITED THERE ON PAGE 4
13 PROVIDES THAT UNBUNDLED DEDICATED TRANSPORT CONNECTS
14 WIRE CENTERS OWNED BY INCUMBENT LECS OR REQUESTING
15 TELECOMMUNICATIONS CARRIERS.

16 A. EXACTLY.

17 Q. SO IT DOESN'T LIMIT IT TO JUST AMERITECH
18 WIRE CENTERS. IT SAYS AMERITECH WIRE CENTERS OR
19 WIRE CENTERS BELONGING TO TELECOMMUNICATIONS
20 CARRIERS OTHER THAN AMERITECH.

21 A. RIGHT. THAT WIRE CENTERS THAT ARE OWNED BY
22 THOSE TELECOMMUNICATIONS CARRIERS THAT REQUEST THAT

1 SERVICE IS SIMPLY THE WAY THAT I READ THAT.

2 Q. BUT THERE'S NOTHING IN THE RULE ABOUT
3 OWNERSHIP, IS THERE?

4 A. YES, THERE IS. BETWEEN WIRE CENTERS OWNED
5 BY INCUMBENT LECS OR REQUESTING TELECOMMUNICATIONS
6 CARRIERS OR BETWEEN SWITCHES OWNED BY INCUMBENT LECS
7 OR REQUESTING TELECOMMUNICATIONS CARRIERS. I THINK
8 THAT'S VERY CLEAR.

9 Q. LET ME ASK YOU THIS:

10 WOULD -- IS THE EFFECT OF AMERITECH'S
11 POSITION THAT AMERITECH HAS A CORNER ON COLLOCATION
12 IN THAT LEVEL 3 WILL NEVER BE ABLE TO COLLOCATE AT A
13 FOCAL FACILITY OR VICE VERSA; FOCAL WILL NEVER BE
14 ABLE TO COLLOCATE AT A LEVEL 3 FACILITY BECAUSE THEY
15 WON'T BE ABLE TO GET UNBUNDLED DEDICATED TRANSPORT?

16 A. ABSOLUTELY NOT. THE REQUESTING
17 TELECOMMUNICATIONS CARRIER THAT HAS A SWITCH OR A
18 WIRE CENTER IS FREE TO ORDER DEDICATED TRANSPORT.

19 I THINK WHAT THE FCC HAS TRIED TO DO HERE
20 IS IN -- IS, ONCE AGAIN, AND THIS IS CONSISTENT WITH
21 THEIR LATEST ORDER ON THE LOOP TRANSPORT
22 COMBINATIONS THAT THEY'RE TRYING TO SLOW THE SPECIAL

1 ACCESS ARBITRAGE; IN OTHER WORDS, THAT DEDICATED
2 TRANSPORT IS NOT TO BE USED FOR ACCESS SERVICES AND
3 WHICH IS WHAT IT WOULD OPEN UP IF THIS WERE ALLOWED
4 TO HAPPEN.

5 I'M NOT -- I'M GOING TO HAVE A HARD TIME
6 BELIEVING THAT AN MCI POP IS EVER GOING TO BE A
7 LEVEL 3 WIRE CENTER AND THAT'S WHAT I BELIEVE THE
8 INTENT IS IN DOING THIS.

9 Q. WHAT ABOUT A LEVEL 3 POP BEING A FOCAL
10 COLLOCATION SPACE?

11 A. IF THEY'VE GOT A LOCAL SWITCH THERE, THEY
12 CAN HAVE DEDICATED TRANSPORT THERE .

13 Q. BUT IF THEY DON'T HAVE A SWITCH, THEY SIMPLY
14 HAVE FACILITIES. IN THAT CASE, WHAT -- WELL, WHAT
15 YOU'RE SAYING IS -- WELL, STRIKE THAT. I GUESS I GO
16 BACK TO MY ORIGINAL QUESTION, THOUGH.

17 WHAT YOU'RE SAYING IS LEVEL 3 COULD NEVER
18 GET UNBUNDLED DEDICATED TRANSPORT FROM AMERITECH IF
19 IT WAS COLLOCATED AT A THIRD CARRIER'S FACILITY,
20 EVEN IF THEY GOT BETTER COLLOCATION ARRANGEMENTS
21 FROM THAT THIRD CARRIER, THEY COULD DO IT IN 20
22 DAYS, IT WAS CHEAPER SPACE, ET CETERA --

1 A. YES, THEY COULD --

2 Q. -- AND THAT CARRIER IS INTERCONNECTED WITH
3 AMERITECH.

4 A. AS LONG AS THEY HAD A SWITCH AT THAT
5 FACILITY, YES, THEY COULD USE DEDICATED TRANSPORT TO
6 THAT FACILITY AS THE INTENT OF THE -- OF THE FCC
7 HERE IN THIS DEFINITION.

8 Q. I'D LIKE TO TALK TO YOU A LITTLE BIT ABOUT
9 DARK FIBER, ISSUE 16.

10 A. YES.

11 Q. YOU TESTIFIED THAT AMERITECH HAS PROPOSED A
12 25 PERCENT LIMITATION ON INDIVIDUAL CLECS LEASE OF
13 AMERITECH DARK FIBER, CORRECT?

14 A. YES.

15 Q. DO YOU KNOW IF AMERITECH IMPOSES THAT SAME
16 LIMITATION ON ITSELF?

17 A. NO, WE HAVE -- WE HAVE INSTALLED THAT FIBER
18 FOR -- AT SOME POINT GROWTH TO UTILIZE THAT FIBER.
19 SO THAT FIBER HAS NOT BEEN BUILT NOR DO WE HAVE ANY
20 REQUIREMENT TO BUILD FACILITIES FOR A CLEC.

21 AND THE FCC IS VERY SPECIFIC IN THAT AND
22 I'M TRYING TO COME UP WITH THE CITE, BUT THEY ARE

1 VERY SPECIFIC IN THAT WE DON'T HAVE TO BUILD
2 FACILITIES FOR A CLEC. WE'RE NOT REQUIRED TO .
3 IF THOSE FACILITIES EXIST IN OUR NETWORK
4 AND ARE UNUSED JUST AS DARK FIBER, THEN OUR
5 REQUIREMENT IS TO ALLOW THEM TO USE THAT SPARE
6 CAPACITY, IF YOU WILL.

7 Q. SO CAN I JUST -- IT'S A FAIR STATEMENT THEN,
8 YOU DON'T HAVE ANY LIMITATIONS ON YOUR USE OF DARK
9 FIBER THEN?

10 A. NO, WE DO NOT LIMIT OUR USE OF DARK FIBER,
11 OF OUR OWN DARK FIBER, NO.

12 Q. YOU ALSO TESTIFY THAT REVOKING DARK FIBER
13 ALLOWS AMERITECH THE ABILITY TO REACT TO LOCALIZED
14 REPEAT (SIC) DEMANDS SUCH AS AREAS OF HIGH
15 RESIDENTIAL OR BUSINESS GROWTH; IS THAT CORRECT?

16 A. YES.

17 Q. NOW, REVOKING THAT DARK FIBER FROM LEVEL 3
18 OR ANY OTHER CLEC, AM I CORRECT TO ASSUME THAT IT
19 APPLIES WHETHER OR NOT LEVEL 3 IS MAKING USE OF THAT
20 FIBER?

21 A. YES, IT IS, GIVEN 12 MONTHS' NOTICE AND
22 IS -- I'M SORRY. I THOUGHT THIS -- THIS PARTICULAR

1 ISSUE, I THOUGHT TO BE RESOLVED, BUT --

2 MR. PENA: CAN WE GO OFF THE RECORD FOR A

3 MINUTE, YOUR HONOR?

4 JUDGE MORAN: SURE.

5 (DISCUSSION OFF THE RECORD.)

6 MR. PENA: STRIKE THAT LAST QUESTION.

7 JUDGE MORAN: OKAY.

8 WE'RE BACK ON THE RECORD AND THE LAST

9 QUESTION WILL BE STRICKEN.

10 MR. PENA: THANK YOU, YOUR HONOR.

11 BY MR. PENA:

12 Q. MR. OYER, I HAVE A FEW QUESTIONS ON

13 DIVERSITY, THAT'S ISSUE 25.

14 NOW, YOU TESTIFIED -- I BELIEVE IT'S ON

15 PAGE 13 -- THAT THE ISSUE REGARDING DIVERSITY IS

16 WHETHER AMERITECH IS REQUIRED TO PROVIDE DIVERSITY

17 TO LEVEL 3 AT NO CHARGE.

18 NOW, WOULD YOU AGREE WITH ME, SUBJECT TO

19 CHECK, THAT THE LAST UNDISPUTED SENTENCE IN SECTION

20 9.4.2 OF THE UNE APPENDIX PROVIDES, AND I QUOTE,

21 "PHYSICAL DIVERSITY REQUESTED BY THE CLEC SHALL BE

22 SUBJECT TO ADDITIONAL CHARGES"?

1 A. IT'S 9.4.2?

2 Q. RIGHT.

3 A. I'M PRETTY SURE I'M FAMILIAR WITH IT, BUT IF

4 YOU DON'T MIND, I'D LIKE TO LOOK AT THAT.

5 Q. GO RIGHT AHEAD.

6 A. WHEN ADDITIONAL COSTS ARE INCURRED BY SBC

7 12-STATE, THEN, YES, ADDITIONAL CHARGES WILL BE

8 REQUIRED.

9 Q. MR. OYER --

10 A. NOW, IF THERE IS DIVERSITY.

11 MR. PENA: YOUR HONOR, I'M GOING TO MOVE TO

12 STRIKE THE QUESTION (SIC). I SIMPLY ASKED WHETHER

13 THE LAST UNDISPUTED SENTENCE IN THE CONTRACT READ AS

14 I READ IT INTO THE RECORD.

15 JUDGE MORAN: DO YOU HAVE THE CONTRACT,

16 MR. OYER?

17 THE WITNESS: YES, IF YOU WOULD READ IT AGAIN.

18 BY MR. PENA:

19 Q. "PHYSICAL DIVERSITY REQUESTED BY THE CLEC

20 SHALL BE SUBJECT TO ADDITIONAL CHARGES."

21 A. YES, BUT THEN IT'S CONTINUED --

22 JUDGE ZABAN: ALL HE'S ASKING AT THIS POINT IS

1 DID HE READ THAT ACCURATELY.

2 THE WITNESS: OKAY. YES.

3 BY MR. PENA:

4 Q. SO LEVEL 3 IS NOT REQUESTING DIVERSITY AT NO
5 CHARGE, IS IT?

6 A. NO.

7 Q. LET ME ASK YOU A FEW MORE QUESTIONS ON THIS
8 ISSUE. I THINK POSSIBLY WE MAY BE ABLE TO -- WE MAY
9 HAVE SETTLED SOMETHING THAT YOU WERE HAVING IN YOUR
10 TESTIMONY OR ACTUALLY NOT EVEN SETTLED, BUT WAS
11 NEVER AN ISSUE.

12 YOU TESTIFY THAT LEVEL 3'S PROPOSED
13 REVISIONS OF 9.4.2, THAT SAME UNE APPENDIX, DENY
14 AMERITECH THE ABILITY TO RECOVER COSTS INCURRED, AND
15 I QUOTE, "WHEN NO SUCH DIVERSITY IS IN AMERITECH'S
16 ILLINOIS' NETWORK."

17 AND WOULD YOU AGREE WITH ME THAT THAT IS
18 YOUR TESTIMONY?

19 JUDGE MORAN: WHAT PAGE WAS IT?

20 MR. PENA: I'M ON PAGE 13, YOUR HONOR.

21 THE WITNESS: OKAY. WHICH -- WOULD YOU REPEAT
22 THAT AGAIN, MR. PENA?

1 MR. PENA: SURE.

2 BY MR. PENA:

3 Q. YOU TESTIFY THAT LEVEL 3'S PROPOSED
4 REVISIONS OF 9.4.2 DENY AMERITECH THE ABILITY TO
5 RECOVER COSTS INCURRED WHEN NO SUCH DIVERSITY EXIST
6 IN AMERITECH ILLINOIS' NETWORK.

7 JUDGE ZABAN: THAT'S THE RESPONSE TO THE
8 QUESTION, WHAT IS LEVEL 3'S POSITION ON THIS ISSUE;
9 IS THAT CORRECT?

10 MR. PENA: HAVE YOU FOUND IT?

11 THE WITNESS: YES. YES.

12 BY MR. PENA:

13 Q. OKAY. NOW, WOULD YOU AGREE WITH ME, SUBJECT
14 TO CHECK, THOUGH, THAT LEVEL 3'S PETITION ON PAGE 36
15 PROVIDES WHEN REQUESTED BY CLEC AND ONLY WHERE SUCH
16 INTEROFFICE FACILITIES EXIST, SBC IS REQUIRED TO
17 PROVIDE PHYSICAL DIVERSITY FOR UNBUNDLED DEDICATED
18 TRANSPORT.

19 IN OTHER WORDS, LEVEL 3 ISN'T ASKING FOR
20 UNBUNDLED DEDICATED TRANSPORT WHERE THE FACILITIES
21 DON'T EXIST?

22 A. YES, BUT THERE COULD ALSO BE CASES WHERE THE

1 FACILITIES ACTUALLY DO EXIST, THAT IT WOULD REQUIRE
2 ADDITIONAL FACILITIES. AND IN THOSE CASES, WE WOULD
3 ALSO BE, I WOULD THINK, PROPER IN COLLECTING
4 ADDITIONAL CHARGES FOR THAT.

5 SAY THAT LEVEL 3 WANTED SOME SPECIFIC
6 DIVERSITY TO THEM, LET'S SAY WE HAD A SONET RING IN
7 A PARTICULAR A TO Z LOCATION AND THEY WANTED IT
8 ROUTED SOME OTHER WAY OTHER THAN THE DIVERSITY THAT
9 WAS ALREADY PROVIDED. THEY WANTED HALF OF THEIR
10 CIRCUITS TO GO THROUGH THAT RING AND HALF OF THEIR
11 CIRCUITS TO GO THROUGH ANOTHER, THOSE HALF THAT WENT
12 THROUGH A DIFFERENT ROUTE THAT MIGHT TAKE IT 25
13 MILES FURTHER OUT OF THE WAY WOULD THEN BE SUBJECT
14 TO ADDITIONAL CHARGES FOR THE ADDITIONAL TRANSPORT
15 USED.

16 Q. AND THOSE CHARGES WOULD BE -- WOULD THEY BE
17 THE TELRIC -- PARDON ME, THE CHARGES THAT ARE
18 IDENTIFIED IN THE CONTRACT FOR UNBUNDLED DEDICATED
19 TRANSPORT?

20 A. NO, BECAUSE THERE'S NO WAY TO TELL WHAT
21 CHARGES WOULD BE INVOLVED IN THAT UNTIL WE KNEW WHAT
22 THE DIVERSITY WAS.

1 THE CHARGES FOR DEDICATED TRANSPORT ARE
2 CALCULATED ON AIRLINE MILES. SO IF YOU'RE -- IF
3 YOU'RE TAKING THAT SPECIFIC DIVERSITY, IN OTHER
4 WORDS, YOU WANT TO GO THERE A DIFFERENT ROUTE IN
5 CASE THERE'S A CUT ON THAT FACILITY, THEN THOSE
6 CHARGES WOULD NOT BE CALCULATED ON AIRLINE MILES.
7 YOU WOULD HAVE TO GO AND CALCULATE THEM SEGMENT BY
8 SEGMENT WITH WHATEVER ROUTE OR WHATEVER SPECIFIC
9 DIVERSITY THAT LEVEL 3 REQUESTED BEING CONSIDERED.

10 IF -- IF --

11 Q. BUT HOW DID YOU COME UP WITH THOSE RATES ?

12 I MEAN, IF WE HAVE ALREADY HAVE UNBUNDLED
13 DEDICATED TRANSPORT PRICING IN THE CONTRACT, AND
14 ASSUMING THEY'RE EVEN MILEAGE BASED, ONCE YOU
15 CALCULATE THE MILEAGE, AREN' T THE RATES IN THE
16 CONTRACT OKAY?

17 A. NOT NECESSARILY. THERE ARE MORE TYPES OF
18 DIVERSITY THAN JUST PHYSICAL DIVERSITY AS FAR AS
19 ROUTE DIVERSITY. THERE'S ALSO EQUIPMENT DIVERSITY.

20 LEVEL 3 COULD SAY I DON'T WANT THIS
21 PARTICULAR CIRCUIT TO TRAVERSE ONE -- OKAY. THEY
22 COULD SAY I WANT BAY DIVERSITY. IN OTHER WORDS, I

1 WANT THIS CIRCUIT TO HAVE DIVERSITY WHERE IT NEVER
2 GOES THROUGH A SINGLE BAY ANYWHERE IN IT. THAT'S
3 ONE TYPE OF DIVERSITY.

4 THERE ARE SO MANY TYPES OF DIVERSITY THAT
5 WITHOUT KNOWING WHAT THE DIVERSITY IS, WE CANNOT
6 POSSIBLY CALCULATE THE CHARGES FOR THAT DIVERSITY,
7 AND THE ONLY APPROPRIATE PRICING MECHANISM F OR THAT
8 WOULD BE AN INDIVIDUAL COST BASIS.

9 Q. MR. OYER, I'D LIKE TO ASK YOU A FEW
10 QUESTIONS ABOUT INTELLECTUAL PROPERTY RIGHTS, ISSUE
11 10.

12 A. YES.

13 Q. YOU TESTIFIED THAT AMERITECH AND OTHER
14 INCUMBENT LECS ARE REQUIRED TO USE THEIR BEST
15 EFFORTS. I BELIEVE THAT'S ON PAGE 21 OF YOUR
16 TESTIMONY.

17 A. YES.

18 Q. THAT'S NOT WHAT THE AGREEMENT PROVIDES,
19 THOUGH, IS IT?

20 WOULD YOU AGREE WITH ME, SUBJECT TO
21 CHECK, THE AMERITECH -- AMERITECH'S PROPOSED
22 AGREEMENT ACTUALLY PROVIDES SECTION 14.5.1 OF THE

1 GENERAL TERMS AND CONDITIONS THAT A CLEC MUST OBTAIN
2 THE NECESSARY CONSENTS?

3 A. NO, THE ORIGINAL AGREEMENT DOES NOT CONTAIN
4 OUR LAST PROPOSAL, WHICH -- I KNOW THAT THERE'S BEEN
5 SOME CONFUSION ON WHETHER OR NOT THIS PROPOSAL WAS
6 MADE. I'M PRETTY SURE THAT -- I KNOW I WAS CC'D ON
7 AN E-MAIL TO MR. ROMANO A WEEK AGO THAT GAVE OUR
8 LAST LANGUAGE THAT DID REFLECT THE BEST EFFORTS
9 STANDARD IN THAT LANGUAGE AND I'M PREPARED TO SUBMIT
10 THAT, IF WE NEED TO.

11 IN FACT, I WOULD LIKE TO SUBMIT THAT.

12 MR. ROMANO: YOUR HONOR, CAN WE GO OFF THE
13 RECORD FOR A MOMENT?

14 JUDGE MORAN: YES.

15 (DISCUSSION OFF THE RECORD.)

16 BY MR. PENA:

17 Q. MR. OYER, ONE LAST SUBJECT I'D LIKE TO
18 ADDRESS WITH YOU, THAT'S PAYLOAD MAPPING, ISSUE 25.

19 A. YES.

20 Q. WERE YOU HERE LAST FRIDAY WHEN MR. FRIEDMAN
21 CROSS-EXAMINED LEVEL 3 GAVALEZ?

22 I BELIEVE YOU WERE.

1 A. YES.

2 Q. AND I BELIEVE THAT MS. GAVALEZ TESTIFIED
3 THAT LEVEL 3 WANTED PAYLOAD MAPPING BECAUSE
4 AMERITECH PERFORMS PAYLOAD MAPPING ON ITS NETWORK
5 AND ALSO OFFERS IT TO OTHER CARRIERS; DO YOU RECALL
6 THAT?

7 A. YES.

8 Q. AND TO THAT TESTIMONY, MR. FRIEDMAN
9 RESPONDED TO MS. GAVALEZ THAT AMERITECH COU LD
10 ACCOMMODATE THAT.

11 A. YES.

12 Q. AND I'M WONDERING, IF THE ISSUE'S BEEN
13 RESOLVED, DO YOU KNOW IF AMERITECH'S AGREEING TO
14 LEVEL 3'S PROPOSED LANGUAGE ?

15 A. NO. ACTUALLY, NO. IT WAS -- IT WAS
16 ACCOMMODATED -- THE LEVEL OF PAYLOAD MAPPING THAT
17 OTHER CLECS AND IXCS OR OTHER CUSTOMERS RECEIVED IN
18 THE PROPOSED CONTRACT WITH MULTIPLEXING.

19 PAYLOAD MAPPING IS A VERY GENERIC TERM.
20 ACTUALLY, IT'S A COMBINATION OF TERMS OF PAYLOAD,
21 WHICH IS THE OVERALL BAND WIDTH, AND THEN MAPPING
22 WHICH MEANS THERE'S SOME SORT OF A CHANNELIZATION

1 THAT'S TAKEN PLACE THERE. AND IT'S ALWAYS DONE
2 THROUGH MULTIPLEXING.

3 THERE IS NOWHERE IN THIS PROPOSAL THAT
4 THEY HAVE REFERRED TO MULTIPLEXING, NOR THE COSTS
5 RELATED TO MULTIPLEXING.

6 IN 9.3.3, WE OFFER LEVEL 3 MULTIPLEXING
7 IN THE SAME MANNER THAT WE DO OTHER CLECS. THIS IS
8 A FORM OF PAYLOAD MAPPING --

9 Q. SO ARE YOU -- I'M SORRY. GO AHEAD.

10 A. -- THAT WE OFFERED PAYLOAD MAPPING IN THE
11 EXISTING CONTRACT. AGAIN, WE'RE USING A TERM THAT
12 IS UNDEFINED ANYWHERE IN THE CONTRACT. IT'S VERY
13 GENERIC.

14 Q. I'M SORRY.

15 A. SO IN OUR TERMS OF MULTIPLEXING AND IN OUR
16 DCS OFFERINGS WHICH WE OFFER IN THE SAME MANNER THAT
17 WE OFFER IXCS, WE OFFER LEVEL 3 THE SAME METHODS OF
18 PAYLOAD MAPPING THAT WE OFFER OTHER CLECS.

19 Q. LET ME ASK YOU THIS:

20 LEVEL 3'S SPECIFICALLY ASKING FOR
21 CHANNELIZATION, OKAY, IN 9.3.2. WERE YOU PROVIDING
22 THAT TO OTHER CARRIERS?

1 ARE YOU FAMILIAR WITH THE TERM? I
2 APOLOGIZE.

3 A. YES, IN THE FORM OF MULTIPLEXING, WHICH IS
4 YOU HAVE TO HAVE MULTIPLEXING TO CHANNELIZE
5 SOMETHING.

6 THIS LANGUAGE NEVER ADDRESSES THAT AND
7 NEVER REALLY -- MULTIPLEXING IS AN OPTION TO
8 DEDICATED TRANSPORT. IN OTHER WORDS, YOU CAN TAKE
9 DEDICATED TRANSPORT. IF YOU WANT THAT OPTIONAL
10 MULTIPLEXER, WHICH IS A PIECE OF EQUIPMENT PLACED ON
11 THE END OF THAT DEDICATED TRANSPORT, THERE ARE
12 OPTIONAL CHARGES ASSOCIATED WITH THAT AND WE WILL DO
13 THAT MULTIPLEXING. THAT IS A FORM OF PAYLOAD
14 MAPPING AND THAT IS THE PAYLOAD MAPPING THAT WE
15 REFERENCED -- OR THAT IS THE METHOD OF PAYLOAD
16 MAPPING THAT WE REFERENCED IN THE DATA REQUEST OR
17 THAT WE SPOKE OF IN THE DATA REQUEST.

18 WE PROVIDE MULTIPLEXING AND THAT'S THE
19 MANNER IN WHICH WE PAYLOAD MAP IN OUR OWN NETWORK
20 AND THAT'S THE METHOD OF PAYLOAD MAPPING THAT WE
21 OFFER.

22 Q. SO THEN WHAT -- I'M TRYING TO UNDERSTAND

1 YOUR OBJECTION TO THE PAYLOAD MAPPING THAT LEVEL 3'S
2 ASKING FOR.

3 ARE YOU SAYING IT'S NOT TECHNICALLY
4 FEASIBLE TO PROVIDE WHAT LEVEL 3 WANTS?

5 A. WELL, LET'S -- IN DATA REQUEST 33 THAT
6 LEVEL 3 SUBMITTED, IT IS ASKING FOR -- AND I THINK
7 I'VE GOT A COPY OF IT HERE. IT IS ASKING FOR US
8 TO -- AN OC-3 TO CHANNELIZE IT AS THREE STS-1S AND
9 ONE STS-3-C. THAT IS NOT TECHNICALLY FEASIBLE IN MY
10 UNDERSTANDING OF IT.

11 SO, AGAIN, I COME BACK TO WE NEED A
12 DEFINITION OF WHAT PAYLOAD MAPPING IS AND WHAT IT
13 ISN'T, BECAUSE IF YOU WANT TO SAY WHETHER OR NOT
14 IT'S TECHNICALLY FEASIBLE, NOT IN THE MANNER THAT
15 LEVEL 3 HAS RESPONDED HERE, NO, IT IS NOT.

16 Q. MR. OYER, I WASN'T REFERRING TO A DATA
17 REQUEST. I WAS REFERRING TO THE CONTRACT.

18 AS LEVEL 3 HAS REQUESTED IN THE CONTRACT,
19 IS IT TECHNICALLY FEASIBLE FOR AMERITECH TO PROVIDE
20 THAT PAYLOAD MAPPING?

21 A. AS MULTIPLEXING, YES, BUT WE MIGHT AS WELL
22 CALL IT MULTIPLEXING, IF IT'S MULTIPLEXING.

1 JUDGE MORAN: EXCUSE ME. ARE YOU SAYING THAT
2 MULTIPLEXING IS SOMEHOW BEING CONFUSED WITH PAYLOAD
3 MAPPING?
4 THE WITNESS: MULTIPLEXING -- PAYLOAD MAPPING IS
5 A VERY BROAD GENERIC TERM THAT COULD MEAN --
6 JUDGE MORAN: THAT COULD INCLUDE MULTIPLEXING?
7 THE WITNESS: YES. YES. MULTIPLEXING IS
8 UNDER -- IF YOU WILL, THERE'S SOMEWHAT OF A
9 HIERARCHY THAT I'M TRYING TO DESCRIBE HERE. I'M NOT
10 SURE I'M DOING IT VERY EFFECTIVELY.
11 JUDGE MORAN: WE MAY SEND YOU TO THE DRAWING
12 BOARD.
13 THE WITNESS: BUT -- OH, YOU'RE IN TROUBLE.
14 BUT THAT PAYLOAD MAPPING, FOR ONE THING,
15 ALL OF THE CHANNELIZATION THAT THEY REFER TO TAKES
16 SOME SORT OF MULTIPLEXING. THERE'S NO -- IN LEVEL
17 3'S PROPOSAL, THERE'S NO REFERENCE TO MULTIPLEXING
18 EVEN BEING CONTEMPLATED IN THIS.
19 THERE'S -- IT SAYS ANY TECHNICALLY
20 FEASIBLE MANNER. WE DON'T DEPLOY ALL TECHNICALLY
21 FEASIBLE MANNERS OF MULTIPLEXING IN OUR NETWORK, SO
22 WE OBJECT TO THAT.

1 THE MULTIPLEXING IS A FORM OF PAYLOAD
2 MAPPING. AND IF WE WANT TO UTILIZE PAYLOAD MAPPING
3 IN THE CONTRACT, THEN WE NEED TO DEFINE IT AND
4 DEFINE ITS INDIVIDUAL TERMS AND THE INDIVIDUAL TYPES
5 OF EQUIPMENT THAT THEY ANTICIPATE US USING IN THE
6 MEANS OF PAYLOAD MAPPINGS, BECAUSE THEY -- AGAIN,
7 IT'S LEFT VERY BROAD AND GENERIC, AND WE DON'T KNOW
8 WHETHER THAT'S EQUIPMENT WE CURRENTLY HAVE EMPLOYED
9 DEPLOYED. WE DON'T KNOW WHAT THEY'RE ASKING US TO
10 DO.

11 THERE COULD BE MANY METHODS OUT THERE
12 THAT WE DO NOT HAVE DEPLOYED THAT THEY'RE ASKING US
13 TO DO WITH THIS PAYLOAD MAPPINGS PROPOSAL.

14 AND, AGAIN, WE JUST WANT DEFINITE TERMS
15 OF WHAT IT IS THEY'RE ASKING FOR. AND LET'S DEFINE
16 IT AS MULTIPLEXING. IN 9.3.3, WE'VE ALREADY GIVEN
17 THEM FORMS OF PAYLOAD MAPPING VIA MULTIPLEXING.

18 MR. PENA: I DON'T HAVE ANYTHING FURTHER, YOUR
19 HONOR.

20 JUDGE MORAN: OKAY. THANK YOU.

21 JUDGE ZABAN: STAFF, DO YOU HAVE ANY QUESTIONS?

22 MS. NAUGHTON: STAFF HAS NO QUESTIONS.

1 JUDGE MORAN: STAFF HAS NO QUESTIONS.
2 YOU NEED FIVE MINUTES?
3 MR. COVEY: NO, 30 SECONDS.
4 JUDGE MORAN: OKAY. FINE.
5 JUDGE ZABAN: COUNSEL HAVE ANYTHING FURTHER?
6 MR. COVEY: WE HAVE NO REDIRECT FOR MR. OYER.
7 JUDGE MORAN: NO REDIRECT?
8 THANK YOU, MR. OYER. YOU'RE EXCUSED.
9 AND I GUESS THIS IS A GOOD TIME FOR US TO
10 TAKE A LUNCH BREAK.
11 JUDGE ZABAN: OFF THE RECORD.
12 (DISCUSSION OFF THE RECORD.)
13 (WHEREUPON, A LUNCHEON
14 RECESS WAS TAKEN TO RESUME
15 AT 2:00 P.M.)
16
17
18
19
20
21
22

1 AFTERNOON SESSION: 2:00 P.M.

2 (WHEREUPON, AMERITECH

3 EXHIBIT NO. 5.0 WAS

4 MARKED FOR IDENTIFICATION

5 AS OF THIS DATE.)

6 JUDGE MORAN: OKAY. WE'RE RESUMING AFTER LUNCH,

7 AND AMERITECH IS READY TO CALL ITS NEXT WITNESS.

8 MR. COVEY: AMERITECH CALLS DR. DEBRA ARON.

9 (WITNESS SWORN.)

10 DEBRA ARON,

11 CALLED AS A WITNESS HEREIN, HAVING BEEN FIRST DULY

12 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION

14 BY

15 MR. COVEY:

16 Q. DR. ARON, COULD YOU PLEASE STATE YOUR NAME

17 AND BUSINESS ADDRESS FOR THE RECORD.

18 A. DEBRA J. ARON, A-R-O-N. MY ADDRESS IS 1603

19 ORRINGTON AVENUE, SUITE 1500, EVANSTON, ILLINOIS

20 60201.

21 Q. DO YOU HAVE BEFORE YOU AN EXHIBIT THAT'S

22 BEEN MARKED FOR IDENTIFICATION AS AMERITECH ILLINOIS

1 EXHIBIT 5.0?

2 A. YES, I DO.

3 Q. AND THIS CONSISTS OF 26 PAGES OF TYPED
4 QUESTIONS AND ANSWERS AND ONE ATTACHMENT; IS THAT
5 CORRECT?

6 A. YES, IT IS.

7 Q. OKAY. WAS THIS PREPARED BY YOU OR AT YOUR
8 DIRECTION?

9 A. YES, IT WAS.

10 Q. DO YOU HAVE ANY CORRECTIONS TO THE STATEMENT
11 AT THIS TIME?

12 A. YES, I DO.

13 ON PAGE 4, LINE 1, THE FIFTH WORD
14 "CUSTOMERS," THE APOSTROPHE SHOULD BE AFTER THE "S"
15 AND NOT BEFORE IT. SO IT WOULD BE POSSESSIVE
16 PLURAL.

17 AND ON LINE 2, THE WORD "CUSTOMER" SHOULD
18 BE PLURAL, "CUSTOMERS."

19 Q. WITH THOSE CORRECTIONS, IS THIS THE
20 TESTIMONY YOU WISH TO SUBMIT IN THIS PROCEEDING?

21 A. YES, IT IS.

22 Q. NOW, I KNOW YOU HEARD MR. PANFIL SAY EARLIER

1 HE WAS PREPARED TO ANSWER ANY QUESTIONS THAT THE
2 EXAMINERS MAY HAVE ON THE DIAGRAM MR. GATES DREW ON
3 THE FX ISSUE.

4 ARE YOU ALSO PREPARED TO ANSWER THE
5 HEARING EXAMINERS' QUESTIONS ON THAT EXHIBIT?

6 A. YES, I AM.

7 MR. COVEY: WITH THAT, I MOVE FOR THE ADMISSION
8 SUBJECT TO CROSS OF AMERITECH ILLINOIS EXHIBIT 5.0,
9 INCLUDING THE ATTACHMENT.

10 JUDGE MORAN: ARE THERE ANY OBJECTIONS?

11 MR. ROMANO: NO OBJECTIONS, YOUR HONOR.

12 JUDGE MORAN: OKAY. HEARING NO OBJECTIONS, THE
13 EXHIBIT OF AMERITECH 5.0 IS ADMITTED SUBJECT TO
14 CROSS-EXAMINATION.

15 (WHEREUPON, AMERITECH
16 EXHIBIT NO. 5.0 WAS
17 ADMITTED INTO EVIDENCE AS
18 OF THIS DATE.)

19 JUDGE MORAN: AND WHO WISHES TO PROCEED WITH
20 SUCH CROSS?

21 MR. ROMANO: I GUESS I WILL BE.

22 THANK YOU.

1 CROSS -EXAMINATION

2 BY

3 MR. ROMANO:

4 Q. GOOD AFTERNOON, DR. ARON.

5 A. GOOD AFTERNOON.

6 Q. I WANT TO START WITH PAGE 8 OF YOUR

7 TESTIMONY, THE VERIFIED STATEMENT.

8 LINES 5 THROUGH 7, YOU STATE THAT AS YOU

9 UNDERSTAND IT, ABSENT ANY TYPE OF FOREIGN EXCHANGE

10 SERVICE, THE STANDARD PRACTICE IS TO ASSIGN

11 TELEPHONE NUMBERS TO CUSTOMERS PHYSICALLY LOCATED IN

12 THAT GEOGRAPHIC AREA.

13 ESSENTIALLY, THAT'S WHAT YOU STATE,

14 CORRECT?

15 A. YES.

16 Q. WHAT IS THAT UNDERSTANDING BASED UPON?

17 A. THAT UNDERSTANDING IS BASED UPON MY

18 EXPERIENCE IN THE INDUSTRY AND MY CONVERSATIONS WITH

19 PEOPLE WHO ARE KNOWLEDGEABLE ABOUT NUMBERING.

20 Q. DO YOU KNOW IF THERE'S ANYWHERE ONE COULD

21 FIND THIS STANDARD PRACTICE IDENTIFIED OR SET FORTH

22 IN ANY PARTICULAR DOCUMENT?

1 A. I BELIEVE THAT THERE IS A NUMBERING
2 ADMINISTRATOR GUIDELINES DOCUMENT, BUT I HAVE NOT
3 REVIEWED IT MYSELF.

4 Q. OKAY. SO I THINK YOU'RE PROBABLY REFERRING
5 TO THAT CENTRAL OFFICE CODE ASSIGNMENT GUIDELINES?

6 A. WELL, THERE IS THE LOCAL EXCHANGE ROUTING
7 GUIDE WHICH THE LERG -- IT'S REFERRED TO AS THE
8 LERG. THAT IS A DATABASE THAT DESCRIBES WHERE
9 NUMBERS ARE ASSIGNED.

10 I BELIEVE THERE'S ALSO A NUMBERING
11 ADMINISTRATOR DOCUMENT OF SOME SORT THAT PROVIDES
12 GUIDELINES ON HOW THOSE NUMBERS ARE ASSIGNED.

13 Q. ARE YOU FAMILIAR AT ALL WITH THE INDUSTRY
14 NUMBERING COMMITTEE'S CENTRAL OFFICE CODE ASSIGNMENT
15 GUIDELINES PROMULGATED BY THE INDUSTRY NUMBERING
16 COMMITTEE WHICH IS A SUBGROUP OF THE ASSOCIATION --
17 I BELIEVE IT'S TELECOMMUNICATIONS INFORMATION
18 SERVICES OR ATIS?

19 A. WHAT YOU'RE REFERRING TO MAY BE THE SAME
20 GUIDELINES THAT I'M REFERRING TO.

21 Q. OKAY.

22 A. AS I INDICATED, I'M FAMILIAR WITH THEIR

1 EXISTENCE, BUT I HAVE NOT REVIEWED THEM.

2 Q. SO YOU COULDN'T TELL ME IF THERE'S ANYTHING
3 IN THAT DOCUMENT OR ANY OTHER SET OF GUIDELINES THAT
4 ACTUALLY IMPOSES A REQUIREMENT WITH RESPECT TO
5 PHYSICAL LOCATION OR ANY REFERENCE TO THAT?

6 A. I DID NOT INDICATE IN MY TESTIMONY THAT
7 THERE IS SUCH A REQUIREMENT. I WAS DESCRIBING THE
8 STANDARD WIRELINE INDUSTRY PRACTICE.

9 Q. ON PAGE 15 OF YOUR TESTIMONY -- EXCUSE ME.
10 ACTUALLY, PAGE 7. I'M SORRY. PAGE 7 OF YOUR
11 TESTIMONY. I APOLOGIZE FOR MAKING YOU FLIP BACK AND
12 FORTH.

13 YOU'RE TALKING HERE, I BELIEVE, OF AN
14 EXAMPLE OF THIS FX SERVICE, CORRECT? I BELIEVE
15 LINES 18 AND THEN -- ON LINE 18 AND THEN CONTINUING
16 OVER TO PAGE 8, LINE 407 (SIC).

17 A. YES.

18 Q. IN ASSESSING THE DIFFERENT COST INCENTIVES
19 THE PARTIES MIGHT HAVE WITH RESPECT TO CERTAIN KINDS
20 OF TRAFFIC, HAVE YOU ACTUALLY LOOKED AT HOW LEVEL 3
21 AND AMERITECH INTERCONNECT TODAY AND LOOKED TO THE
22 TRAFFIC LINES BETWEEN THEM TO FIGURE OUT HOW

1 PREVALENT OR HOW SIGNIFICANT THIS KIND OF TRAFFIC IS
2 TODAY BETWEEN THE PARTIES?

3 A. WHICH KIND OF TRAFFIC ARE YOU REFERRING TO?

4 Q. I GUESS THE KIND OF TRAFFIC THAT YOU'RE
5 DESCRIBING -- DISCUSSING IN YOUR STATEMENT, THIS
6 SO-CALLED FX TRAFFIC.

7 A. I HEARD THE TESTIMONY ON FRIDAY WHICH
8 INDICATED THAT 95 TO A HUNDRED PERCENT OF THE
9 TRAFFIC TO LEVEL 3 IS ISP TYPE TRAFFIC AND THAT
10 LEVEL 3 DOES NOT ORIGINATE TRAFFIC.

11 Q. OKAY. BUT IS THAT THE SAME AS SAYING THEN
12 THAT ALL ISP CALLS ARE THESE FX KIND OF CALLS?

13 A. NO, IT'S NOT THE SAME THING AS SAYING THAT.

14 Q. DO YOU HAPPEN TO KNOW -- I ASKED MR. PANFIL
15 EARLIER THIS MORNING ABOUT WHETHER HE KNEW IF THERE
16 WERE ANY TARIFFS OR AGREEMENTS CONTAINING APPENDIX
17 FGA, I BELIEVE, I REFERRED TO WITH HIM.

18 DO YOU HAPPEN TO KNOW IF THERE ARE ANY
19 AMERITECH INTERCONNECTION AGREEMENTS OR WHETHER
20 AMERITECH'S TARIFF NO. 20 HAPPENS TO CONTAIN ANY
21 PROVISIONS DEALING WITH FX TRAFFIC?

22 A. I'M SORRY. COULD YOU REPEAT THE QUESTION?

1 Q. SURE. LET'S BREAK IT UP A LITTLE BIT, I
2 GUESS.

3 DO YOU HAPPEN TO KNOW WHETHER AMERITECH'S
4 TARIFF NO. 20 CONTAINS ANY PROVISIONS GOVERNING WHAT
5 YOU MIGHT CALL FX TYPE OF TRAFFIC, THE EXCHANGE OF
6 THAT TRAFFIC, HOW THE PARTIES WILL COMPENSATE ONE
7 ANOTHER?

8 A. I KNOW THAT AMERITECH HAS A RETAIL TARIFF
9 UNDER WHICH IT PROVIDES FX SERVICE TO ITS RETAIL
10 CUSTOMERS.

11 Q. ARE YOU AWARE THAT AMERITECH ALSO HAS
12 TARIFFS FILED THAT PROVIDE FOR WHOLESALE SERVICES
13 AND INTERCONNECTION AND TRAFFIC EXCHANGE AT ALL?

14 A. I'M AWARE OF THAT, YES.

15 Q. DO YOU KNOW IF THAT TARIFF OR THOSE TARIFFS,
16 HOWEVER MANY THERE MIGHT BE, CONTAIN ANY PROVISIONS
17 RELATING TO THIS FX TYPE OF TRAFFIC AND THE EXCHANGE
18 OF IT?

19 A. WELL, IT'S MY UNDERSTANDING THAT AMERITECH
20 DOES PROVIDE INTEREXCHANGE TRANSPORT TO OTHER
21 CARRIERS, AND THAT IS THE SORT OF TRANSPORT THAT'S
22 AT ISSUE HERE.

1 THE ISSUE HERE IS WHETHER LEVEL 3 SHOULD
2 BE COMPENSATING AMERITECH FOR THE INTEREXCHANGE
3 TRANSPORT PORTION OF THE SERVICE THAT IS BEING
4 PROVIDED ON AN FX-LIKE BASIS --

5 Q. BUT --

6 A. -- TO LEVEL 3'S END USE CUSTOMERS.

7 Q. BUT DOES THE TARIFF ACTUALLY SAY THAT, FOR
8 EXAMPLE, THERE IS AN FX TYPE OF TRAFFIC AND THAT
9 THIS TRAFFIC WILL BE COMPENSATED ON A WHOLESALE
10 BASIS BY THE TERMINATING PARTY PAYING THE
11 ORIGINATING PARTY SOME AMOUNT OF MONEY?

12 ARE YOU AWARE OF ANYTHING TO THAT EFFECT?

13 A. THAT WOULD BE A QUESTION I THINK YOU'D HAVE
14 TO ASK MR. PANFIL.

15 Q. ON -- LET'S SEE. ON PAGE -- (SIC) IN YOUR
16 TESTIMONY, I BELIEVE YOU SAY -- I'M LOOKING FOR THE
17 REFERENCE RIGHT NOW SPECIFICALLY, BUT I BELIEVE YOU
18 SAY THAT FAILURE TO ADOPT -- OH, HERE IT IS. I'M
19 SORRY. PAGE -- IT IS ON PAGE 23, LINES 15 THROUGH
20 17.

21 A. YES.

22 Q. YOU SAY, "FAILURE TO ADOPT APPENDIX FX WOULD

1 CREATE A BARRIER TO EFFICIENT COMPETITION BY
2 FAVORING LEVEL 3 RELATIVE TO ANY OTHER CLEC OR ILEC
3 THAT, IN FACT, PAID FOR THE RESOURCES THAT IT USED.

4 DO YOU SEE THAT STATEMENT?

5 A. YES, I DO.

6 Q. ARE YOU SAYING THERE THAT COMPETITIVE ENTRY
7 IN ILLINOIS TO DATE HAS BEEN EFFICIENT TO THE EXTENT
8 THAT SOME CARRIERS HAVEN'T HAD AN APPENDIX FX IN
9 THEIR CONTRACT OR THERE HASN'T BEEN ANY FX
10 PROVISIONS IN AN AMERITECH TARIFF?

11 A. DID YOU SAY EFFICIENT OR INEFFICIENT IN YOUR
12 QUESTION?

13 Q. LET ME RESTATE THE QUESTION AND BRING IT
14 BACK THEN.

15 ARE YOU SAYING THAT COMPETITIVE ENTRY IN
16 ILLINOIS TO DATE HAS BEEN, I GUESS, INEFFICIENT TO
17 THE EXTENT THAT CERTAIN CARRIERS HAVE NOT HAD AN
18 APPENDIX FX IN THEIR INTERCONNECTION AGREEMENTS OR
19 TO THE EXTENT THAT AMERITECH'S WHOLESALE TARIFFS
20 DON'T PROVIDE FOR THIS KIND OF FX TYPE OF
21 COMPENSATION?

22 A. YES, I WOULD SAY THAT THERE HAS BEEN A

1 SUBSTANTIAL -- I WOULD EXPECT THERE HAS BEEN A
2 SUBSTANTIAL DISTORTION IN CLECS' NETWORK
3 ARCHITECTURE, IN THE WAY THEY DESIGN THEIR NETWORKS,
4 WHERE THEY PLACE THEIR SWITCHES, AND HOW THEY
5 DETERMINE TO PROVIDE SERVICE BASED ON THE FACT THAT
6 THEY ARE BEING PROVIDED SUBSTANTIAL AMOUNTS OF
7 INTEREXCHANGE TRANSPORT ON AMERITECH'S NETWORK
8 WITHOUT BEING REQUIRED TO PAY FOR IT.

9 Q. ARE YOU FAMILIAR AT ALL WITH THE ANNUAL
10 TELECOMMUNICATIONS REPORT SUBMITTED TO THE ILLINOIS
11 COMMERCE COMMISSION EVERY YEAR, SAY, THE 1999
12 REPORT, FOR EXAMPLE?

13 A. COULD YOU BE MORE SPECIFIC WHICH REPORT
14 YOU'RE TALKING ABOUT?

15 Q. WELL, THERE'S AN ANNUAL REPORT, AND I CAN
16 PROVIDE A COPY OF IT, IF YOU'D LIKE, BUT IT'S
17 SPECIFICALLY THE ILLINOIS COMMERCE COMMISSION'S
18 ANNUAL REPORT ON TELECOMMUNICATIONS.

19 ARE YOU AWARE THAT THE ILLINOIS COMMERCE
20 COMMISSION ANNUALLY PREPARES A REPORT ON THE STATE
21 OF TELECOMMUNICATIONS?

22 A. YES, I AM.

1 Q. WOULD YOU BE SURPRISED TO LEARN THAT THAT
2 REPORT SAID THAT, IN 1999, SMALLER LOCAL EXCHANGE
3 CARRIERS IN ILLINOIS HAD INSTALLED 223 DIGITAL
4 SWITCHES IN THE STATE?

5 A. THAT'S NOT A NUMBER I'D HEARD.

6 Q. WOULD YOU ACCEPT, SUBJECT TO CHECK, THAT
7 THAT'S IN THERE? OR I CAN PROVIDE A COPY.

8 A. NO, I WOULD ACCEPT.

9 MR. ROMANO: THANK YOU. I HAVE NO FURTHER
10 QUESTIONS, YOUR HONOR.

11 THANK YOU.

12 JUDGE MORAN: STAFF?

13 MS. NAUGHTON: NO QUESTIONS.

14 JUDGE MORAN: STAFF HAS NO QUESTIONS.

15 I HAVE A QUESTION THAT I PROBABLY SHOULD
16 HAVE POSED TO DR. -- EXCUSE ME, TO MR. PANFIL.

17 MR. COVEY, MAYBE YOU CAN TELL ME IF THIS
18 IS WITHIN THE SCOPE OF DR. ARON'S TESTIMONY.

19 I WOULD LIKE TO SEE A VISUAL ANALYSIS OF
20 HOW 1-800 TREATMENT IS PROVIDED. NOW, WOULD --
21 WOULD YOU, DR. ARON, BE ABLE TO DO THAT FOR US?

22 THE WITNESS: ARE YOU ASKING HOW THE NETWORK

1 PIECES FIT TOGETHER TO PROVIDE 800 SERVICE?

2 JUDGE MORAN: EXACTLY. WE'RE TALKING ABOUT FX.

3 I'VE HEARD THE 1-800 SCHEME BROUGHT OUT AS NOT

4 COMPARABLE AND -- 1-800 SERVICE IS ANOTHER MEANS

5 THAT BUSINESSES USE TO GET THESE TYPES OF CALLS; AM

6 I CORRECT? AND --

7 THE WITNESS: YES, THAT'S RIGHT.

8 JUDGE MORAN: AND I'M JUST TRYING TO SEE HOW IT

9 COMPARES.

10 SOME TYPE OF VISUAL DISPLAY OR OUTLINE.

11 IF NOT, I SEE MR. PANFIL IS STILL HERE AND I MAY

12 CALL HIM AT THE END TO DO THAT FOR ME.

13 THE WITNESS: ARE YOU ASKING ABOUT 1-800 SERVICE

14 THAT'S PROVIDED OVER AMERITECH'S OWN NETWORK OR

15 PROVIDED JOINTLY WITH ANOTHER CARRIER?

16 JUDGE MORAN: JOINTLY WITH ANOTHER CARRIER, OR

17 BOTH. I MEAN, I GUESS I WOULD LIKE TO BE --

18 MR. COVEY: IT'S PROBABLY MORE APPROPRIATE FOR

19 MR. PANFIL NETWORK TYPE --

20 JUDGE MORAN: THEN THAT WOULD BE FINE. IF IT'S

21 NOT A PROBLEM, I WOULD ASK TO RECALL MR. PANFIL AT

22 THE END OF THE CASE, AND I HAVE NO OTHER QUESTIONS.

1 THANK YOU.

2 MR. COVEY: IF WE CAN CONFER FOR JUST A SECOND.

3 (DISCUSSION OFF THE RECORD.)

4 MR. COVEY: WE HAVE NO REDIRECT, YOUR HONOR.

5 JUDGE MORAN: OKAY. THANK YOU. YOU'RE EXCUSED.

6 THANK YOU FOR COMING IN.

7 AND THE NEXT WITNESS?

8 (WHEREUPON, AMER ITECH

9 EXHIBIT NOS. 6.0 AND 6.1 WERE

10 MARKED FOR IDENTIFICATION

11 AS OF THIS DATE.)

12 JUDGE MORAN: AMERITECH, PROCEED.

13 MR. COVEY: AMERITECH ILLINOIS CALLS MICHAEL

14 SILVER AS ITS NEXT WITNESS.

15 (WITNESS SWORN.)

16 MICHAEL SILVER,

17 CALLED AS A WITNESS HEREIN , HAVING BEEN FIRST DULY

18 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY

21 MR. COVEY:

22 Q. MR. SILVER, COULD YOU PLEASE STATE YOUR NAME

1 AND BUSINESS ADDRESS FOR THE RECORD.

2 A. MICHAEL D. SILVER, 350 NORTH ORLEANS,
3 CHICAGO, ILLINOIS 60654.

4 Q. AND DO YOU HAVE BEFORE YOU A VERIFIED
5 STATEMENT OF MICHAEL SILVER THAT'S BEEN MARKED FOR
6 IDENTIFICATION AS AMERITECH ILLINOIS EXHIBIT 6.0?

7 A. YES, I DO.

8 Q. AND THAT CONSISTS OF 35 PAGES OF TYPED
9 QUESTIONS AND ANSWERS; IS THAT CORRECT?

10 A. YES, IT IS.

11 Q. WAS THIS STATEMENT PREPARED BY YOU OR AT
12 YOUR DIRECTION?

13 A. YES, IT WAS.

14 Q. DO YOU HAVE ANY CORRECTIONS TO THIS
15 STATEMENT AT THIS TIME?

16 A. YES, I DO.

17 ON PAGE 12, THE LAST FULL QUESTION AND
18 ANSWER NEEDS TO BE STRUCK. THAT'S THE QUESTION
19 THAT -- THAT IS, "DOES AMERITECH ILLINOIS OFFER AN
20 ALTERNATIVE TO CASH DEPOSIT?"

21 MS. NAUGHTON: STRICKEN?

22 MR. COVEY: YEAH.

1 BY MR. COVEY:

2 Q. DO YOU ALSO HAVE IN FRONT OF YOU A VERIFIED
3 REBUTTAL STATEMENT OF MICHAEL SILVER THAT'S BEEN
4 MARKED FOR IDENTIFICATION AS AMERITECH ILLINOIS 6.1?

5 A. YES, I DO.

6 Q. AND DOES THAT CONSIST OF SEVEN PAGES OF
7 TYPED QUESTIONS AND ANSWERS?

8 A. THAT'S CORRECT.

9 Q. WAS THIS PREPARED BY YOU OR AT YOUR
10 DIRECTION?

11 A. YES, IT WAS.

12 Q. DO YOU HAVE ANY CORRECTIONS TO THE VERIFIED
13 REBUTTAL STATEMENT AT THIS TIME?

14 A. NO, I DO NOT.

15 MR. COVEY: WITH THAT, YOUR HONOR, I'D MOVE FOR
16 THE ADMISSION OF AMERITECH ILLINOIS EXHIBITS 6.0 AND
17 6.1 SUBJECT TO CROSS.

18 JUDGE MORAN: ARE THERE ANY OBJECTIONS?

19 MR. PENA: NO OBJECTIONS, YOUR HONOR.

20 JUDGE MORAN: HEARING NO OBJECTION, AMERITECH
21 ILLINOIS 6.0 AND 6.1 ARE ADMITTED SUBJECT TO CROSS.

22

1 (WHEREUPON, AMERITECH
2 EXHIBIT NOS. 6.0 AND 6.1 WERE
3 ADMITTED INTO EVIDENCE AS
4 OF THIS DATE.)
5 MR. PENA: THANK YOU, YOUR HONOR.
6 JUDGE MORAN: AND MR. PENA.
7 CROSS-EXAMINATION
8 BY
9 MR. PENA:
10 Q. GOOD AFTERNOON.
11 A. GOOD AFTERNOON.
12 Q. I'D LIKE TO TURN YOUR ATTENTION TO PAGE 8 OF
13 YOUR DIRECT -- DIRECT TESTIMONY, YOUR VERIFIED
14 STATEMENT.
15 A. GOT IT.
16 Q. DOWN AT THE BOTTOM, YOU MENTIONED A TARI FF,
17 ICC NO. 20, PART 19, SECTION 2. AND I'LL GET TO
18 THAT IN A MINUTE, BUT I JUST WANT TO MAKE SURE I
19 UNDERSTAND WHAT YOU'RE PROPOSING.
20 IS AMERITECH PROPOSING TWO CHARGES, THOSE
21 THAT ARE IDENTIFIED IN THE TARIFF AND THEN -- AND
22 ACCORDING TO YOUR TESTIMONY, THAT'S FOR UPDATING

1 BILLING RECORDS AND CUSTOMER SERVICE RECORDS, AND
2 THEN A SECOND CHARGE FOR UPDATING REPAIR RECORDS; AM
3 I CORRECT?

4 A. WE TALK ABOUT THE UPDATING REPAIR RECORDS.
5 AT THIS POINT, WE DON'T HAVE SUCH A CHARGE FOR THAT.
6 IF, IN FACT, WE STARTED BRANDING THE
7 REPAIR RECORDS, WE WOULD NEED A CHARGE. AT THIS
8 POINT IN TIME, WE'RE NOT BRANDING THEM.

9 Q. OKAY. BUT -- SO WE DON'T HAVE ANYTHING IN
10 THE RECORD ADDRESSING THAT?

11 A. THAT'S CORRECT.

12 Q. OKAY. THANK YOU.

13 I'D LIKE -- DO YOU HAVE A COPY OF THAT
14 TARIFF?

15 A. YES, I DO.

16 Q. I'VE PULLED IT AND I'VE TAKEN A LOOK AT IT,
17 AND I'M WONDERING WHAT CHARGE IN THE TARIFF YOU'RE
18 REFERRING TO WITH YOUR TESTIMONY ON PAGE 8.

19 A. RIGHT. THERE IS A SUBSECTION 4.2 UNDER
20 SERVICE ORDER CHARGES.

21 Q. JUST A MOMENT. LET ME GET THERE, PLEASE.
22 OKAY.

1 A. AND THERE IS A CHARGE THAT'S CALLED ADD OR
2 CHANGE --
3 Q. OKAY.
4 A. -- WHICH IS A CHARGE APPLICABLE -- I'M
5 SORRY, WHEN ADDING OR CHANGING SERVICE ON EXISTING
6 LOOP PER OCCASION.
7 NOW, INCORPORATED IN THAT WOULD BE IF YOU
8 WERE TO HAVE A NAME CHANGE, FOR INSTANC E, ALL OF THE
9 CUSTOMERS THAT YOU HAD, THERE'D BE REQUIRED TO BE A
10 SERVICE ORDER ON EVERY INDIVIDUAL LOOP FOR THOSE
11 CUSTOMERS.
12 IT'S NOT SPECIFIC TO NAME CHANGE. IT'S
13 THE SERVICE ORDER ITSELF AND THE NAME CHANGE WOULD
14 BE ONE OF THE ITEMS INCORPORATED.
15 Q. SO YOU BRING UP A GOOD POINT.
16 THIS IS -- THIS CHARGE ADDRESSES ADDING
17 OR CHANGING SERVICE. LET ME ASK YOU THIS:
18 WAS NAME CHANGE CONTEMPLATED WHEN THIS
19 TARIFF WAS APPROVED?
20 A. I CAN'T SPEAK TO THAT RIGHT NOW WHAT WAS
21 CONTEMPLATED WHEN IT WAS ACTUALLY DEVELOPED. I
22 WASN'T THERE.

1 Q. OKAY. THANK YOU.

2 NOW, YOU ALSO MENTION THAT THE NAME
3 CHANGE CHARGE THAT IS REQUIRED BECAUSE OF WORK
4 ACTIVITIES THAT AMERITECH MUST PERFORM TO PROVIDE
5 ACCURATE INFORMATION TO THE CLEC AND CLEC'S
6 CUSTOMERS, CORRECT?

7 I BELIEVE IT'S PAGE 7 OF YOUR TESTIMONY.

8 A. COULD YOU READ THAT AGAIN, PLEASE?

9 Q. AS YOU MENTION, THE NAME CHANGE CHARGE IS
10 REQUIRED BECAUSE OF WORK ACTIVITIES THAT AMERITECH
11 MUST PERFORM TO CONTINUE TO PROVIDE ACCURATE
12 INFORMATION TO THE CLEC AND THE CLEC'S CUSTOMERS.

13 A. CORRECT.

14 Q. AND THERE IN THAT SAME PAGE, YOU ALSO
15 SPECIFY -- SPECIFICALLY MENTION UPDATING PROCESSES,
16 RECORDS THAT SUPPORT BILLING RECORDS, CUSTOMERS'
17 SERVICE RECORDS AND REPAIR RECORDS. FINALLY, YOU
18 ALSO MENTION THE CHARGE SUPPORTS UPDATING ALL
19 MECHANIZED SYSTEMS AND I'D LIKE TO ASK YOU A FEW
20 QUESTIONS ABOUT THAT.

21 DO YOU KNOW IF EITHER OF AMERITECH'S
22 CHARGES, THE TARIFF THAT WE'VE TALKED ABOUT OR THE

1 REPAIR -- UPDATING REPAIR RECORDS THAT YOU ALSO
2 DISCUSS ON PAGE 8, DO YOU KNOW IF EITHER OF THOSE
3 CHARGES INCLUDES UPDATING OR PERFORMING DATABASE
4 PULLS FROM YOUR TIRKS DATABASE?

5 A. I GUESS I DON'T UNDERSTAND WHAT YOU MEAN BY
6 INCLUDE DATABASE PULLS FROM TIRKS.

7 WHAT ARE YOU REFERRING -- I'M NOT SURE
8 WHAT YOU'RE REFERRING TO.

9 Q. WELL, YOU TESTIFY THAT IT'S FOR UPDATING
10 PROCESSES AND RECORDS.

11 A. RIGHT.

12 Q. IS IT FOR UPDATING SYSTEMS?

13 A. IT'S FOR UPDATING TO MAKE SURE THAT THE
14 APPROPRIATE CARRIER'S NAME IS ON THE INDIVIDUAL END
15 USER'S RECORD SO THAT WE KNOW WHO --

16 Q. IN AMERITECH'S SYSTEMS --

17 A. RIGHT.

18 Q. -- IS WHAT YOU'RE REFERRING TO.

19 AND MY QUESTION IS, DOES THAT INCLUDE
20 HAVING TO UPDATE OR DOES THIS CHARGE IMPACT IN ANY
21 WAY THE TIRKS DATABASE OR THE TRUNKS INVENTORY?

22 A. I DON'T KNOW --

1 Q. YOU DON'T KNOW?

2 A. -- WHAT WENT INTO THE COST BASIS OF THE
3 TARIFF.

4 Q. OKAY. DO YOU KNOW IF THE COST BASIS
5 ADDRESSED AMERITECH'S FACILITIES AVAILABILITY
6 DATABASE?

7 A. AGAIN, WHAT WE HAVE IN AMERITECH IS -- IN
8 PARTICULAR, AMERITECH ILLINOIS, WHAT WE'RE TALKING
9 ABOUT RIGHT HERE IS A SERVICE ORDER CHARGE. ONE OF
10 THE THINGS ON -- WHEN WE CHARGE THOSE ADD OR CHANGE
11 CHARGE, IT'S FOR THE ENTIRE SERVICE CHARGE. IT IS
12 NOT JUST FOR A NAME CHANGE.

13 SO YOU COULD BE ASKING FOR MULTIPLE
14 DIFFERENT CHANGES IN RELATION TO THAT ONE PARTICULAR
15 LOOP AND THAT'S ALL COVERED UNDER THE ONE CHARGE.
16 WE ARE NOT LOOKING FOR SPECIFIC INDIVIDUAL CHARGES
17 FOR THE NAME CHANGE OR ANYTHING ELSE.

18 Q. AND THEN WHAT I'M TRYING TO EXPLORE WITH YOU
19 IS THE SYSTEMS THAT AMERITECH HAS TO CHANGE --

20 A. HM-HMM.

21 Q. -- TO ADDRESS A NAME CHANGE CHARGE.

22 A. AND, AGAIN, I DON'T KNOW WHAT COST WENT INTO

1 THAT INDIVIDUAL ELEMENT.

2 Q. YOU DON'T KNOW?

3 A. THAT'S A COMMISSION-APPROVED CHARGE THAT'S
4 OUT THERE ALREADY.

5 Q. OKAY. ON PAGE 8, YOU TESTIFY THAT AMERITECH
6 DOES NOT CHARGE TO CHANGE THE NAME OF ITS RETAIL
7 CUSTOMERS, CORRECT?

8 A. TO THE INDIVIDUAL RETAIL CUSTOMER ITSELF?

9 Q. CORRECT.

10 A. RIGHT.

11 Q. AND YOU MENTION THAT ONE OF THE MAJOR
12 DIFFERENCES IS THAT AMERITECH ILLINOIS' RETAIL
13 CUSTOMERS DO NOT HAVE HUNDREDS OR THOUSANDS OF
14 SEPARATE END USER ACCOUNTS THAT REQUIRE WORK BY
15 AMERITECH, CORRECT?

16 A. THAT'S CORRECT.

17 Q. NOW, ISN'T IT TRUE THAT AMERITECH CAN GET
18 HUNDREDS, IF NOT THOUSANDS, OF NAME CHANGE REQUESTS
19 FROM RETAIL CUSTOMERS IN A GIVEN YEAR?

20 A. I DON'T KNOW HOW MANY WE GET. IT SEEMS TO
21 ME THAT'D BE UNLIKELY THAT WE WOULD GET THAT MANY.

22 Q. BUT HOWEVER MANY, ALL OF THEM WOULD REQUIRE

1 UPDATING OF AMERITECH'S RECORDS, CORRECT?

2 A. BUT, AGAIN, THEY WOULD BE ON AN INDIVIDUAL
3 BASIS AS OPPOSED TO IN THE CASE OF A LEVEL 3, IF
4 YOU'VE GOT 10,000 CUSTOMERS, THAT WOULD BE 10,000
5 CUSTOMERS THAT WOULD HAVE TO BE CHANGED AT ONE POINT
6 IN TIME.

7 Q. AND YOU ALSO MENTION THERE ON THAT SAME PAGE
8 THAT THE SECOND MAJOR REASON FOR THE NAME CHANGE
9 CHARGE IS THAT AMERITECH KEEPS CLEC CUSTOMER
10 INFORMATION IN ITS DATABASE.

11 AND MY QUESTION TO YOU IS, AMERITECH IS
12 GETTING PAID BY LEVEL 3 FOR USE OF, FOR EXAMPLE, AN
13 UNBUNDLED NETWORK ELEMENT, IS IT NOT?

14 A. IT'S BEING PAID BY AMERITECH FOR WHAT NOW?

15 Q. LEVEL 3 WOULD BE PAYING AMERITECH FOR USE OF
16 AN UNBUNDLED NETWORK ELEMENT, CORRECT?

17 A. YES.

18 Q. IT WOULD ALSO BE PAYING NONRECURRING
19 CHARGING, SHOULD IT BE USING AMERITECH UNBUNDLED
20 NETWORK ELEMENTS, CORRECT?

21 A. IT WOULD PAY THE APPROPRIATE NONRECU RRING
22 CHARGE AS THEY APPLY, RIGHT, I HOPE.

1 Q. I'D LIKE TO ADDRESS TERM OF THE AGREEMENT
2 WHICH BEGINS ON -- I BELIEVE IT'S ON PAGE 9 OF YOUR
3 TESTIMONY.

4 A. OKAY.

5 Q. YOU TESTIFY THAT THE TERM CONTAINS A
6 PROVISION THAT WOULD EXTEND THE AGREEMENT BEYOND THE
7 TERM'S EXPIRATION, CORRECT?

8 A. YES.

9 Q. NOW, ISN'T IT ALSO TRUE THAT AMERITECH
10 COULD, UNDER THE PROVISIONS OF THE AGREEMENT,
11 UNILATERALLY TERMINATE THE AGREEMENT?

12 A. NOT TO MY KNOWLEDGE.

13 Q. WAS -- CAN EITHER PARTY TERMINATE THE
14 AGREEMENT PURSUANT TO THE TERMS OF THE AGREEMENT?

15 A. NOT -- AT THE END OF THE TERM OF THE
16 AGREEMENT OR DURING THE AGREEMENT?

17 Q. AT THE END OF ONE YEAR.

18 A. IF THE AGREEMENT WAS A ONE-YEAR TERM, I
19 SUPPOSE YES.

20 Q. AND THAT'S WHAT YOU'RE OFFERING, A ONE-YEAR
21 TERM, CORRECT?

22 A. WE ARE OFFERING A ONE-YEAR TERM, BUT

1 AMERITECH JUST UNILATERALLY WOULD NOT BE LOOKING TO
2 TERMINATE AN AGREEMENT FOR NO REASON.

3 Q. BUT UNDER THE TERMS OF THE AGREEMENT, EITHER
4 PARTY COULD TERMINATE THAT -- THE AGREEMENT --

5 A. I SUPPOSE THAT'S PROBABLY TRUE.

6 Q. -- BY GIVING A 180-DAY NOTICE?

7 A. I SUPPOSE SO, YES.

8 I'M NOT AN ATTORNEY, SO I CAN'T REALLY
9 SAY HOW THE SPECIFICS OF THAT --

10 Q. WELL, WOULD YOU AGREE WITH ME, SUBJECT TO
11 CHECK, 5.2 OF THE GENERAL TERMS AND CONDITIONS
12 PROVIDES THAT EITHER PARTY CAN TERMINATE THE
13 AGREEMENT BY SENDING A NOTICE AT LEAST WITHIN 180
14 DAYS PRIOR TO THE EXPIRATION OF THE TERM?

15 A. THAT SOUNDS REASONABLE.

16 Q. I'D LIKE TO ADDRESS DEPOSITS WITH YOU NOW,
17 MR. SILVER. IT'S ISSUE NO. 7.

18 AND YOU TESTIFY THAT AMERITECH IS
19 EXTENDING CREDIT TO CLECS EACH TIME AN
20 INTERCONNECTION AGREEMENT IS IMPLEMENTED SINCE
21 SERVICES ARE PROVIDED PRIOR TO BILLS BEING RENDERED;
22 WOULD YOU AGREE WITH THAT?

1 A. YES.

2 Q. NOW, ISN'T IT ALSO TRUE THAT IN EFFECT,
3 LEVEL 3'S EXTENDING CREDIT TO AMERITECH EVERY TIME
4 IT TERMINATES A CALL THAT ORIGINATES ON AMERITECH'S
5 NETWORK?

6 A. ARE YOU REFERRING TO USAGE CHARGES THAT ARE
7 BILLED IN ARREARS, RECIPROCAL COMP?

8 Q. CORRECT.

9 A. YES, I WOULD AGREE WITH THAT.

10 Q. AND YOU ALSO TESTIFY THAT AS OF MAY 10TH --
11 THIS IS ON PAGE 11 OF YOUR TESTIMONY -- DIRECT
12 TESTIMONY, VERIFIED STATEMENT -- THAT LEVEL 3 OWED
13 AMERITECH MORE THAN A MILLION DOLLARS, AND OF THIS
14 AMOUNT, OVER \$900,000 WAS OVERDUE.

15 IN YOUR SUPPLEMENTAL STATEMENT, YO U
16 APPEAR TO UPDATE THOSE NUMBERS AND YOU STATE THAT
17 FIVE -- OVER 509,000 WAS -- STRIKE THAT.

18 YES, IN YOUR REBUTTAL STATEMENT, YOU
19 TESTIFY THAT 509,000 OR OVER 509,000 ARE PAST DUE --

20 A. COULD YOU --

21 Q. -- IS THAT CORRECT?

22 A. WHERE IN MY REBUTTAL?

1 Q. PAGE 3.

2 A. PAGE 3?

3 YES.

4 Q. AND WERE YOU HERE FRIDAY WHEN MR. HUNT

5 TESTIFIED FOR LEVEL 3?

6 A. NO, I WAS NOT.

7 Q. AND WOULD YOU AGREE, SUBJECT TO CHECK, AND

8 COUNSEL CAN CORRECT ME IF I'M WRONG, THAT HE

9 TESTIFIED -- MR. HUNT TESTIFIED THAT LEVEL 3 HAD

10 DISPUTED APPROXIMATELY 90 PERCENT OF THE CHARGES

11 REFERENCED IN YOUR TESTIMONY?

12 A. MY UNDERSTANDING IS THAT SINCE SEPTEMBER OF

13 LAST YEAR, THERE HAVE BEEN NUMEROUS INSTANCES WHERE

14 LEVEL 3 HAS DISPUTED CHARGES. WE'VE LOOKED INTO

15 THEM AND IDENTIFIED THAT, IN FACT, THE CHARGES WERE

16 APPLICABLE.

17 Q. LET ME ASK YOU THIS:

18 DO YOU KNOW THE PROCEDURES USED BY THE

19 PARTIES FOR HANDLING DISPUTES BETWEEN THE PARTIES?

20 A. NOT SPECIFICALLY, NO.

21 Q. DO YOU KNOW IF AMERITECH CAN UNILATERALLY

22 CLOSE A DISPUTE?

1 A. I WOULD PRESUME, AND I DON'T KNOW FOR SURE,
2 BUT I WOULD THINK NOT.

3 BUT BY THE SAME TOKEN, AS I'VE INDICATED,
4 THERE WERE A COUPLE OF DISPUTES THAT I WAS AWARE --
5 THAT I'VE BEEN MADE AWARE OF IN, FOR INSTANCE, WHERE
6 LEVEL 3 HAD REQUESTED A SERVICE, AND IT TURNS OUT
7 THAT THEY REQUESTED THE WRONG SERVICE. AND THEN
8 WHEN BILLED FOR IT, THEY DIDN'T FEEL LIKE THAT WAS
9 APPLICABLE TO BE BILLED FOR; THEY CONSIDERED THAT TO
10 BE A DISPUTE. WE DO NOT, BECAUSE YOU ORDERED THE
11 SERVICE AND, THEREFORE, SHOULD BE PAYING FOR IT.

12 Q. I UNDERSTAND, BUT YOU DON'T HAVE A BASIS TO
13 DISAGREE WITH MR. HUNT'S TESTIMONY, THOUGH?

14 A. I'M NOT FAMILIAR WITH MR. HUNT'S TESTIMONY.

15 Q. THANK YOU.

16 I BELIEVE THAT ON PAGE 11 OF YOUR
17 TESTIMONY, YOU'RE PROPOSING AN INITIAL DEPOSIT OF UP
18 TO FOUR MONTHS OF LEVEL 3'S PROJECTED AVERAGE
19 MONTHLY BILLINGS; IS THAT CORRECT?

20 A. TWO TO FOUR MONTHS, THAT'S CORRECT.

21 Q. NOW, HAVE YOU READ MR. HUNT'S SUPPLEMENTAL
22 VERIFIED STATEMENT?

1 A. NO, I HAVEN'T.

2 Q. WOULD YOU AGREE, SUBJECT TO CHECK, THAT HE
3 TESTIFIES THAT BASED ON LEVEL 3'S CURRENT BILLINGS,
4 LEVEL 3'S DEPOSIT IN AMERITECH ILLINOIS WOULD BE
5 \$700,000?

6 A. SUBJECT TO CHECK.

7 Q. AND IN YOUR REBUTTAL STATEMENT, YOU STATE
8 THAT BASED ON CURRENT BILLINGS, LEVEL 3 MAY BE
9 SUBJECT TO A DEPOSIT RANGING FROM 269,647.10, TO
10 539,294.20?

11 A. THAT'S CORRECT.

12 Q. NOW, WOULD YOU AGREE WITH ME THAT THE AMOUNT
13 OF DEPOSIT IS LIKELY TO INCREASE OVER TIME IF LEVEL
14 3 GAINS CUSTOMERS AND MARKET SHARE?

15 A. NO, I DON'T THINK I'D AGREE WITH THAT
16 BECAUSE THERE'S NO -- THE ONLY REASON THAT LEVEL 3
17 WOULD HAVE TO PAY A DEPOSIT IS IF THEY HAD BEEN
18 CONSISTENTLY PAST DUE IN WHAT THEY OWED TO BEGIN
19 WITH.

20 WE DON'T REQUIRE A DEPOSIT IF A CUSTOMER
21 IS TIMELY ON THEIR PAYMENTS.

22 Q. BUT ASSUMING A DEPOSIT IS REQUIRED AND IT'S

1 BASED ON WHAT WE JUST DISCUSSED, THREE OR FOUR
2 MONTHS OF BILLINGS, AND BILLINGS THAT ARE AT A SET
3 RATE, AS LEVEL 3 GAINS MARKET SHARE, WON'T THAT
4 DEPOSIT GO UP -- POTENTIALLY GO UP?

5 A. AGAIN, IT'S NOT -- FIRST OF ALL, THE DEPOSIT
6 IS BASED ON THE AVERAGE BILLINGS LOOKING AT HISTORY.
7 AND SO WE WOULD DETERMINE WHAT THAT DEPOSIT WAS
8 BASED ON THE ACTUAL BILLED LEVELS AT THAT POINT IN
9 TIME WHEN THE DEPOSIT BECAME REQUIRED.

10 I DON'T BELIEVE THERE'S ANYTHING THAT
11 SAYS THAT WE CONTINUALLY UPDATE THE DEPOSIT AMOUNT.
12 IN FACT -- IF, IN FACT, IT WAS REQUIRED THAT IT
13 WOULD APPEAR THAT THE UPDATE OF A DEPOSIT WAS
14 REQUIRED, THAT WOULD SEEM TO INDICATE THAT THAT CLEC
15 WAS FURTHER AND FURTHER PAST DUE, IN WHICH CASE WE
16 WOULD PROBABLY START PROCEEDINGS TO START SENDING
17 OUT THE NECESSARY LETTERS AND SO FORTH THAT COULD
18 POSSIBLY LEAD TO DISCONNECTION.

19 Q. I HAVE A FEW QUESTIONS ADDRESSING
20 ASSIGNMENT, ISSUE 14.

21 ON PAGE 14, YOU EXPRESS CONCERNS WITH
22 LEVEL 3'S PROPOSED 30-DAY NOTICE ASSIGNMENT. YOU

1 MENTION THE NUMEROUS MERGERS, TRANSFERS AND
2 ACQUISITIONS BETWEEN AND AMONG COMMUNICATIONS
3 CARRIERS. YOU ALSO TESTIFY THAT IT IS NOT POSSIBLE
4 FOR A CLEC TO BE INVOLVED IN AN ASSIGNMENT OR
5 TRANSFER WITH ANOTHER CLEC, AN INTEREXCHANGE CARRIER
6 OR A CABLE COMPANY, A PAGER COMPANY, WIRELESS
7 COMPANY OR A MIX OF ALL OF THE ABOVE.

8 AND MY QUESTION TO YOU IS, SPECIFICALLY,
9 WHEN TALKING ABOUT TELECOMMUNICATIONS MERGERS OR
10 TELECOMMUNICATIONS AND CABLE MERGERS, ISN'T THE FCC
11 LOOKING AT THOSE MERGERS AND ACQUISITIONS?

12 A. WHAT DO YOU MEAN IS THE FCC LOOKING AT THEM?
13 DO THEY HAVE TO BE REVIEWED BY THE FCC BEFORE --

14 Q. CORRECT.

15 A. YES.

16 Q. SO AMERITECH SHOULD HAVE PLENTY OF NOTICE
17 THAT A MERGER IS ON THE HORIZON, I MEAN, SINCE IT
18 COULD TAKE A YEAR FOR THE FCC TO EXAMINE MERGERS?

19 A. I DON'T -- WELL, WE MAY BE AWARE THAT
20 DISCUSSIONS ARE GOING ON, BUT UNTIL SUCH TIME AS WE
21 ARE FORMALLY NOTIFIED THAT SUCH A MERGER IS GOING TO
22 TAKE PLACE, WE AREN'T GOING TO TAKE -- UNDERTAKE THE

1 NECESSARY ACTIVITIES TO DO SOMETHING ABOUT IT.

2 FOR INSTANCE, TAKING A LOOK AT THE
3 WORLDCOM -- MCI WORLDCOM SPRINT. IF WE HAD GONE
4 FORTH AND STARTED MAKING ALL KINDS OF CHANGES DUE TO
5 THAT, WE WOULD HAVE WASTED A LOT OF TIME AND EFFORT.

6 Q. YOU BRING UP A GOOD POINT.

7 ISN'T IT TRUE THAT AMERITECH TYPICALLY
8 DOESN'T GET INTO IMPLEMENTATION ISSUES WITH A
9 CARRIER UNTIL A CARRIER HAS AN INTERCONNECTION
10 AGREEMENT IN PLACE PRECISELY FOR THE REASONS YOU
11 JUST MENTIONED?

12 A. WE -- I BELIEVE, AND I'M NOT POSITIVE ON
13 THIS, BUT I BELIEVE THAT ONCE WE HAVE BEGUN
14 NEGOTIATIONS WITH THE CARRIER, WE WILL START DOING
15 THE NECESSARY GROUNDWORK SO THAT ONCE THE
16 INTERCONNECTION AGREEMENT IS IN PLACE, WE CAN
17 IMPLEMENT IT.

18 Q. NOW, YOU ALSO TESTIFY ON PAGE 16 THAT
19 AMERITECH IS OPPOSED TO LEVEL 3'S PROPOSAL TO DELETE
20 LANGUAGE DESCRIBING THE SITUATION THAT OCCURS IF
21 AMERITECH SELLS OR TRANSFERS TERRITORY TO AN
22 AFFILIATE; IS THAT CORRECT?

1 A. I'M SORRY. WHERE IS IT ON --
2 Q. I APOLOGIZE. I DON'T HAVE THE LINE NUMBER,
3 BUT IT'S ON PAGE 16.
4 A. RIGHT. APPROXIMATELY? I'M SORRY.
5 JUDGE MORAN: IT'S THE LAST QUESTION AND ANSWER.
6 THE WITNESS: THE QUESTION?
7 I'M SORRY. COULD YOU REPEAT THE
8 QUESTION?
9 BY MR. PENA:
10 Q. SURE, IF I CAN FIND IT.
11 I'M REFERRING SPECIFICALLY TO THE
12 SITUATION WHERE AMERITECH NO LONGER OWNS THE ASSET.
13 YOU TESTIFIED THAT --
14 A. OKAY.
15 Q. -- AMERITECH IS OPPOSED TO LEVEL 3'S
16 PROPOSAL TO DELETE LANGUAGE DESCRIBING THE SITUATION
17 THAT OCCURS IF AMERITECH SELLS OR TRANSFERS
18 TERRITORY TO A NONAFFILIATE.
19 A. YES.
20 Q. NOW, ASSUME THAT LEVEL 3'S ACTUALLY
21 PROVIDING SERVICE IN THE ILEC TERRITORY THAT
22 AMERITECH IS DISPOSING OF.

1 NOW, IN THAT INSTANCE, UNDER AMERITECH'S
2 PROPOSAL, LEVEL 3 WOULD BE LEFT WITHOUT AN
3 INTERCONNECTION AGREEMENT, CORRECT? I MEAN, THEY'D
4 HAVE TO NEGOTIATE WITH THE PARTY?

5 A. THEY WOULD NEED TO NEGOTIATE WITH THE OTHER
6 PARTY; THAT'S CORRECT.

7 Q. LET ME ASK YOU THIS:

8 DO YOU KNOW IF AMERITECH WOULD SELL ITS
9 PROPERTY SUBJECT TO OUTSTANDING OBLIGATIONS,
10 INCLUDING OBLIGATIONS RESULTING FROM INTERCONNECTION
11 AGREEMENTS?

12 A. I DON'T KNOW.

13 Q. NOW, MR. SILVERS (SIC), DOES AMERITECH
14 DEFINE GOOD CREDIT HISTORY IN THE INTERCONNECTION
15 AGREEMENT?

16 A. MY UNDERSTANDING IS, AS OF NOW, THERE IS NO
17 SPECIFIC DEFINITION OF GOOD CREDIT HISTORY FOR A NEW
18 CARRIER.

19 WE DO DEFINE, AS MY TESTIMONY TALKS
20 ABOUT, IN THE CASE OF AN EXISTING CARRIER; AND THE
21 PRESUMPTION IS THAT THAT WOULD FLOW THROUGH TO A NEW
22 CARRIER AS WELL.

1 WHAT I TALK ABOUT ON PAGE 12 OF MY
2 TESTIMONY, I SAY THAT A CLEC WITH AN ESTABLISHED
3 GOOD CREDIT HISTORY MAY BE SUBJECT TO A DEPOSIT IF
4 ONE DELINQUENCY NOTIFICATION LETTER IS SENT DURING
5 THE FIRST SIX MONTHS OF THE AGREEMENT OR IF TWO
6 DELINQUENCY LETTERS ARE SENT DURING THE TERM OF THE
7 AGREEMENT.

8 TO THE EXTENT THAT WE ALSO REQUIRE GOOD
9 CREDIT HISTORY THROUGHOUT OUR REGION, WE WOULD LOOK
10 AT THAT CREDIT HISTORY IN THESE TERMS IF SOMEONE WAS
11 COMING INTO A STATE NEW.

12 Q. SO -- AND THAT'S YOUR PROPOSAL UNDER THE
13 CONTRACT?

14 A. THAT'S CORRECT.

15 Q. LET ME ASK YOU THIS:

16 DID YOU DO ANY INDEPENDENT ANALYSIS OF
17 LEVEL 3'S ABILITY TO PAY?

18 A. NO.

19 Q. SO THIS PROPOSAL THAT AMERITECH HAS IS --
20 HAS PRESENTED TO LEVEL 3 IS THE SAME PROPOSAL THEY'D
21 OFFER TO ANY OTHER CLEC ATTEMPTING TO
22 INTERCONNECT --

1 A. ABSOLUTELY, CORRECT.

2 Q. -- IN ILLINOIS?

3 I WANT TO GO BACK TO ASSIGNMENTS, ISSUE
4 14, MR. SILVER. I APOLOGIZE. I'M DONE WITH THAT
5 ISSUE AS WELL.

6 LET ME -- I JUST HAVE ONE OTHER AREA THAT
7 I WANT TO COVER WITH YOU, MR. SILVER, AND THAT'S THE
8 DEFINITION OF LOCAL LOOP, ISSUE 14. IT STARTS ON
9 PAGE 32 OF YOUR TESTIMONY.

10 AND YOU PROPOSE NEW CONTRACT LANGUAGE
11 THERE AT THE TOP OF PAGE 32 AND YOU DO ADDRESS MOST
12 OF THE CONCERNS THAT LEVEL 3 HAD EXPRESSED.
13 HOWEVER, YOUR PROPOSED LANGUAGE STILL DOESN'T
14 PROVIDE LEVEL 3 WITH NOTICE OF ANY HIGH-CAPACITY
15 LOOPS THAT AMERITECH HAS TO PUT IN ITS NETWORK. AND
16 I'M REFERRING TO HIGH-CAPACITY LOOPS THAT ARE NOT
17 SET OUT IN THAT -- IN THE PROPOSED LANGUAGE; IS THAT
18 CORRECT?

19 A. CORRECT.

20 Q. NOW, IF -- HOW ARE YOU PROPOSING -- OR HOW
21 IS AMERITECH PROPOSING THAT LEVEL 3 BECOME AWARE OF
22 ANY -- OF AMERITECH DEPLOYING HIGHER CAPACITY LOOP

1 OFFERINGS?

2 A. WHEN WE TARIFF -- IF WE WERE TO TARIFF A
3 LOOP OFFERING, IT WOULD BE NOTI - EVERYONE, INCLUDING
4 LEVEL 3, WOULD BE NOTIFIED VIA THE ACCESSIBLE
5 LETTERS.

6 Q. AND LOOP OFFERINGS WILL ALWAYS BE TARIFFED?

7 A. I DON'T KNOW. I DON'T KNOW, BUT I'M JUST
8 SUGGESTING IF IT'S A TARIFFED LOOP OFFERING, I GUESS
9 I WOULD HAVE TO DEFER TO A TARIFF PERSON TO FIND OUT
10 WHETHER, IN FACT, WE DO TARIFF IN ALL CASES.

11 Q. IF THEY'RE NOT TARIFFED, YOUR PROPOSED
12 DEFINITION DOESN'T ALLOW OR DOESN'T PROVIDE FOR
13 NOTICE TO LEVEL 3 THAT, IN FACT, AMERITECH IS
14 UTILIZING THOSE LOOPS, CORRECT?

15 A. NOT SPECIFICALLY.

16 Q. NOW, WOULDN'T YOU SAY THAT THAT'D BE
17 DISCRIMINATORY IF YOU'RE PROVIDING -- IF YOU'RE
18 UTILIZING THOSE LOOPS, YOU'RE MARKETING THOSE LOOPS
19 AND THEY'RE NOT TARIFFED, HOW ARE CLECS SUPPOSED TO
20 KNOW ABOUT IT?

21 A. WELL, I DON'T FEEL -- FIRST OF ALL, WE ARE
22 NOT ALLOWED TO DISCRIMINATE. SO, NO, IT WOULD NOT

1 BE DISCRIMINATORY.

2 YOU'RE ASKING ME HOW WE WOULD NOTIFY? I
3 DON'T KNOW HOW WE WOULD NOTIFY THEM, TO BE HONEST.

4 Q. WELL, WOULD A WRITTEN DAY (SIC) NOTICE AS
5 PROPOSED BY LEVEL 3 BE A GOOD WAY?

6 A. I FEEL -- I BELIEVE THAT THE REASON THAT WE
7 ARE OPPOSED TO PUTTING SUCH LANGUAGE IN THIS
8 TESTIMONY AT THIS TIME IS WE ARE NOT AWARE
9 SPECIFICALLY OF HOW THOSE WOULD BE PROVISIONED. AND
10 IT WOULD BE TOO -- MAYBE TOO BURDENSOME TO ACTUALLY
11 GO FORWARD.

12 Q. WE'RE SIMPLY ASKING -- NOT FORCING YOU TO
13 PROVISION ANYTHING. WE'RE SIMPLY ASKING IF YOU
14 PROVISION --

15 A. IF WE PROVISION.

16 Q. -- SOMETHING, THEN WE WANT NOTICE OF IT.

17 A. I DON'T KNOW. I DON'T KNOW WHY.

18 MR. PENA: I DON'T HAVE ANYTHING FURTHER, YOUR
19 HONOR.

20 JUDGE ZABAN: DOES STAFF HAVE ANY QUESTIONS OF
21 MR. SILVER?

22 MS. NAUGHTON: YES.

1 CROSS-EXAMINATION

2 BY

3 MS. NAUGHTON:

4 Q. GOOD AFTERNOON, MR. SILVER.

5 A. GOOD AFTERNOON.

6 Q. I'M GOING TO ASK YOU SOME QUESTIONS FIRST

7 ABOUT ISSUE 7, DEPOSITS, BILLING AND PAYMENTS.

8 A. FINE.

9 Q. DOES AMERITECH CURRENTLY DEMAND INITIAL

10 DEPOSITS FROM CLECS?

11 A. IT DEPENDS ON THE CRITERIA, WHETHER THEY ARE

12 CONSIDERED TO BE A POOR CREDIT RISK OR NOT.

13 Q. SO THERE MAY BE SOME CLECS THAT DON'T HAVE

14 TO PAY ANY DEPOSITS?

15 A. IF WE DON'T FIND THEM TO BE A POOR CREDIT

16 RISK, THAT'S CORRECT.

17 Q. TO THE EXTENT A CLEC IS REQUIRED TO MAKE AN

18 INITIAL DEPOSIT WITH AMERITECH CURRENTLY, WHAT IS

19 THE TYPICAL INITIAL DEPOSIT? IS IT TWO MONTHS,

20 THREE MONTHS OR FOUR MONTHS OF PROJECTED MONTHLY

21 BILLINGS?

22 A. I BELIEVE IT VARIES BASED ON -- ACTUALLY,

1 I'M NOT SURE WHAT IT'S BASED ON. I'VE JUST BEEN --
2 OUR POLICY IS TWO TO FOUR MONTHS.

3 IT'S PROBABLY, IN MOST CASES, FOUR
4 MONTHS.

5 Q. AND, AGAIN, IT'S BASED ON PROJECTED MONTHLY
6 BILLINGS?

7 A. IN THE CASE OF AN EXISTING CLEC, IT'S BASED
8 ON THEIR -- WHAT THEY -- WHAT THEIR BILLINGS HAVE
9 BEEN. IN THE CASE OF A NEW CLEC, IT HAS TO DO WITH
10 THEIR PROJECTION OF THE NUMBER OF CUSTOMERS THAT
11 THEY'RE GOING TO BE BRINGING IN. AND BASED ON THAT,
12 WHAT IT IS THEY'RE ORDERING.

13 WE GUESSTIMATE, BASED ON WHAT OUR RATES
14 ARE, WHAT THE AMOUNT WOULD BE.

15 Q. SO IN THE CASE OF A CLEC THAT YOU HAVE A
16 HISTORY WITH, YOU WOULD USE A HISTORICAL NUMBER --

17 A. YES.

18 Q. -- LIKE AN AVERAGE OF SOME KIND --

19 A. YES.

20 Q. -- OF THEIR BILLINGS IN THE PAST?

21 IN THIS PARTICULAR INTERCONNECTION
22 AGREEMENT, YOU'RE USING PROJECTED AVERAGE BILLINGS?

1 A. NO, MY UNDERSTANDING, IT'S BASED ON A PERIOD
2 OF TIME FOR THE LAST FEW MONTHS.

3 Q. HOLD ON A SECOND.

4 I'M STILL LOOKING FOR THE REFERENCE.

5 HOLD ON.

6 A. SURE.

7 Q. IF YOU LOOK AT SECTION 7.2.3 OF THE GENERAL
8 TERMS AND CONDITIONS, IT READS THAT, "SUBJECT TO
9 EXTERNAL CREDIT CHECK VERIFICATION AND/OR FINANCIAL
10 STATEMENT REVIEW, SBC/AMERITECH MAY REQUIRE TWO TO
11 FOUR MONTHS OF PROJECTED AVERAGE MONTHLY BILLINGS AS
12 A DEPOSIT."

13 A. OKAY. BUT THE BASIS THAT WE'RE USING FOR
14 THAT PROJECTION IS THE HISTORY.

15 Q. I SEE, I THINK.

16 SO YOU'RE USING HISTORICAL NUMBERS TO
17 MAKE A PROJECTION?

18 A. RIGHT.

19 Q. IN OTHER WORDS, IT'S AMERITECH WHO'S MAKING
20 THIS PROJECTION, NOT THE CLEC?

21 A. THAT'S CORRECT.

22 Q. HAS ANY CLEC NOT BEEN ABLE TO PAY A DEPOSIT?

1 A. I DON'T KNOW.

2 Q. OKAY. AGAIN, LOOKING AT SECTION 7.2.3 OF
3 THE GENERAL TERMS AND CONDITIONS WHERE AMERITECH MAY
4 REQUIRE TWO TO FOUR MONTHS OF PROJECTED AVERAGE
5 MONTHLY BILLINGS AS AN INITIAL DEPOSIT, THIS
6 REQUIREMENT IS APPARENTLY SUBJECT TO EXTERNAL CREDIT
7 CHECK VERIFICATION AND/OR FINANCIAL STATEMENT
8 REVIEW.

9 ALTHOUGH IT'S A LITTLE UNCLEAR, IT SEEMS
10 AS IF THE CREDIT CHECK AND FINANCIAL REVIEW IS USED,
11 APPARENTLY, TO DETERMINE WHETHER OR NOT AMERITECH
12 WILL REQUIRE A TWO-MONTH, THREE-MONTH OR FOUR-MONTH
13 DEPOSIT; IS THAT CORRECT?

14 A. THAT'S MY UNDERSTANDING.

15 Q. THE DETERMINATION OF WHETHER FINANCIAL
16 STATEMENTS AND CREDIT HISTORY -- OR THE ANALYSIS OF
17 THE FINANCIAL STATEMENTS AND CREDIT HISTORY IS A
18 SUBJECTIVE ANALYSIS, ISN'T IT?

19 A. I -- YES.

20 Q. AND, AGAIN, IT'S AMERITECH WHO DECIDES
21 WHETHER OR NOT THE DEPOSIT IS TWO MONTHS, THREE
22 MONTHS OR FOUR MONTHS OF PROJECTED MONTHLY BILLINGS

1 BASED UPON THIS REVIEW OF FINANCIAL STATEMENTS AND
2 CREDIT HISTORY?

3 A. THAT'S CORRECT. THOUGH, I JUST WANT TO GO
4 BACK TO THAT SUBJECTIVE.

5 IT MAY BE SUBJECTIVE AS TO THE
6 DETERMINATION OF WHETHER IT'S TWO, THREE OR FOUR
7 MONTHS, BUT THE ACTUAL VALUE IS NOT SUBJECTIVE.

8 Q. WELL, LET'S INVESTIGATE THAT A LITTLE BIT
9 MORE.

10 WHEN YOU LOOK AT CREDIT HISTORY AND A
11 FINANCIAL STATEMENT, YOU HAVE TO REVIEW THAT AND
12 MAKE SOME DETERMINATIONS AS TO WHAT IS GOOD CREDIT,
13 WHAT IS GOOD FINANCIALS. NOW, THOSE MAY BE ABLE TO
14 BE MADE OBJECTIVE, BUT, CURRENTLY, THE WAY I'M
15 READING THIS CONTRACT, THERE ARE NO OBJECTIVE
16 CRITERIA SETTING FORTH YOUR ANALYSIS AND THE RESULTS
17 THAT YOU'D ACHIEVE; ISN'T THAT CORRECT?

18 A. OTHER THAN THE BASIS FOR DETERMINING WHETHER
19 THE CREDIT HISTORY IS GOOD OR NOT, AND THAT'S,
20 AGAIN, AS I'VE TALKED ABOUT IN MY TESTIMONY WHERE WE
21 TALK ABOUT -- FIND AN EXACT REFERENCE.

22 Q. ARE YOU REFERRING TO WHETHER OR NOT THERE'S

1 BEEN A DELINQUENCY NOTICE SENT WITHIN A CERTAIN TIME
2 PERIOD?

3 A. THAT'S CORRECT.

4 Q. BUT THAT'S DIFFERENT THAN REVIEWING CREDIT
5 HIST- -- WELL, I SUPPOSE THAT COULD BE RELATED TO
6 CREDIT HISTORY.

7 A. WE CONSIDER THAT TO BE THE CREDIT HISTORY,
8 YES.

9 Q. OKAY. BUT NOT AT ALL RELATED TO THE
10 FINANCIAL STATEMENTS?

11 A. THAT'S CORRECT.

12 Q. ON PAGE 3 OF YOUR SUPPLEMENT AT TESTIMONY,
13 YOU SET FORTH THE FIGURE \$134,823.55. THIS APPEARS
14 TO BE SOME AVERAGE MONTHLY BILLING, PERHAPS, OR
15 MAYBE A ONE MONTH'S BILLING BASED ON HISTORICAL
16 NUMBERS?

17 A. NO, THAT'S THE AVERAGE.

18 Q. THAT IS AN AVERAGE --

19 A. YES.

20 Q. -- BASED ON YOUR HISTORICAL ANALYSIS?

21 A. THAT'S CORRECT.

22 Q. WOULD YOU CONSIDER THIS YOUR PROJECTED

1 MONTHLY BILLINGS?

2 A. WE WOULD USE THAT AS A PROJECTION FOR WHAT
3 THE DEPOSIT WOULD BE, BUT, AGAIN, IT'S BASED ON WHAT
4 THE HISTORY HAS BEEN.

5 Q. SO WOULD YOUR DEPOSIT, IF YOU WERE TO, SAY,
6 DECIDE TO HAVE A TWO MONTH DEPOSIT --

7 A. YES.

8 Q. -- WOULD YOU USE THIS NUMBER -- WOULD TWO
9 MONTHS OF PROJECTED MONTHLY BILLINGS EQUAL TWICE
10 THIS NUMBER?

11 A. YES, THAT'S WHAT THE 269,647 REPRESENTS.

12 Q. SO TYPICALLY THEN, THE AVERAGE MONTHLY
13 BILLINGS ARE ALSO THE PROJECTED MONTHLY BILLINGS?

14 A. RIGHT.

15 Q. OKAY. CAN YOU RECONCILE YOUR FIGURES WITH
16 THOSE OF LEVEL 3 WITNESS HUNT SET FORTH ON PAGE 3 OF
17 HIS SUPPLEMENTAL TESTIMONY?

18 IN ESSENCE, HE SAYS \$700,000 REPRESENTS
19 FOUR MONTHS OF AVERAGE MONTHLY BILLINGS.

20 A. NO, I CAN'T.

21 Q. DO YOU AGREE THAT DEPOSITS IN THESE
22 AMOUNTS -- INITIAL DEPOSITS CAN BE A BARRIER TO

1 ENTRY FOR SOME CLECS?

2 A. I DON'T THINK SO, BECAUSE A BARRIER TO ENTRY
3 SEEMS -- THE WAY I WOULD INTERPRET A BARRIER TO
4 ENTRY WOULD BE THAT IT'S PUTTING UP AN ARTIFICIAL
5 IMPEDIMENT THAT HAS NO BASIS.

6 AND IN THE CASE OF THE DEPOSIT, THE ONLY
7 REASON WE'RE ASKING FOR THE DEPOSIT IS WE ARE
8 LOOKING FOR PROTECTION IN THE CASE -- AGAIN, ONLY IN
9 INSTANCES WHERE THEY HAVE A POOR CREDIT HISTORY, TO
10 ENSURE THAT WE WILL GET OUR MONEY THAT'S DUE US.

11 Q. IF YOU WERE TO CONSIDER A BARRIER TO
12 ENTRY -- IF WE WERE TO ASSUME THAT A BARRIER TO
13 ENTRY MEANS SIGNIFICANT UP-FRONT COSTS, WOULD YOU
14 THEN AGREE?

15 A. I'M NOT SURE I COULD NECESSARILY AGREE,
16 BECAUSE I'M NOT SURE THAT I WOULD CONSIDER THIS
17 SIGNIFICANT.

18 Q. OKAY. SECTION 7.2.4 OF THE GENERAL TERMS
19 AND CONDITIONS PERMITS AMERITECH TO WAIVE THE
20 INITIAL DEPOSIT BASED UPON ITS EVALUATION THAT THE
21 CLEC HAS ESTABLISHED A MINIMUM OF 12 MONTHS --
22 CONSECUTIVE MONTHS OF GOOD CREDIT HISTORY WITH ALL

1 ILEC AFFILIATES OF SBC; ISN'T THAT CORRECT?

2 A. THAT'S CORRECT.

3 Q. PREVIOUSLY, IN THESE HEARINGS, AMERITECH HAS
4 PROPOSED THAT GOOD CREDIT HISTORY BE DEFINED TO MEAN
5 THAT THE CLEC HAS RECEIVED NO MORE THAN ONE PAST DUE
6 NOTICE IN A STATE WHERE IT'S DOING BUSINESS; ARE YOU
7 AWARE OF THAT?

8 A. NO.

9 Q. CAN YOU ASSUME THAT, SUBJECT TO CHECK, THAT
10 THAT'S TRUE?

11 A. OKAY.

12 Q. I'D JUST LIKE TO POINT OUT, TOO, THAT
13 SECTION 7.3 AND 7.5 OF THE GENERAL TERMS AND
14 CONDITIONS ALSO USE SIMILAR CRITERIA FOR APPLICATION
15 OF THE DEPOSIT; IN OTHER WORDS, THEY USE EITHER ONE
16 OR TWO NOTICES OF -- PAST DUE NOTICES OR DELINQUENCY
17 NOTICES WITHIN A CERTAIN PERIOD OF TIME.

18 A. RIGHT, AND THAT'S WHAT I REFERENCE IN MY
19 TESTIMONY.

20 Q. THAT'S CORRECT.

21 ISN'T IT POSSIBLE THAT AMERITECH COULD
22 SEND A DELINQUENCY NOTICE IN ERROR?

1 A. I SUPPOSE, YES, ABSOLUTELY.

2 Q. OR THAT THEY COULD DISPUTE IT AND END UP

3 HAVING THE DISPUTE RESOLVED AGAINST THEM --

4 A. YES.

5 Q. -- AGAINST AMERITECH?

6 A. BUT THAT'S WHY WE ALSO PUT IN THE LANGUAGE

7 THAT IT IS -- WE HAVE THE ABILITY TO POSSIBLY WAIVE

8 A CREDIT REQUIREMENT, A DEPOSIT REQUIREMENT.

9 Q. THIS IS IN THE SECTION ABOUT WAIVER, THOUGH.

10 A. THAT WOULD BE PART OF THE CONSIDERATION.

11 Q. OKAY. WHAT I'M TRYING TO GET AT IS THAT

12 YOUR REQUIREMENT FOR WAIVING, OR YOUR -- THE SECTION

13 THAT REFERS TO THE WAIVER OF DEPOSITS SETS UP A

14 STANDARD THAT SAYS THAT IF YOU RECEIVE A CERTAIN

15 NOTICE WITHIN A CERTAIN TIME PERIOD, THEN THE

16 WAIVER -- AMERITECH DOESN'T NEED TO WAIVE.

17 AND THE POINT IS THAT IF THIS

18 DISCONTINUATION IS AN ERROR, LEVEL 3 OR THE CLEC IS

19 OUT OF LUCK UNLESS AMERITECH GRACIOUSLY DECIDES

20 TO --

21 A. WELL, AGAIN, IF WE CAN BE TOLD THAT WE ARE

22 IN ERROR, THEN WE WOULD DISREGARD THAT PARTICULAR

1 DISALLOWANCE NOTICE.

2 JUDGE ZABAN: I THINK WHAT SHE'S ASKING,
3 MR. SILVER, IS THERE ANY PROVISION THAT IF AMERITECH
4 RECEIVES -- SENDS OUT A NOTICE IN ERROR, DOES THAT
5 COUNT AGAINST THE PERSON?

6 THE WITNESS: IN ERROR? NO.

7 JUDGE ZABAN: OKAY. WHERE DOES IT SAY IN THE
8 CONTRACT THAT IT DOESN'T COUNT AGAINST THE PERSON?

9 THE WITNESS: I'M NOT FAMILIAR WITH IT SAYING
10 THAT ANYWHERE IN THE CONTRACTS.

11 JUDGE ZABAN: THE NEXT QUESTION IS IF THERE'S A
12 DISPUTE, AND DURING THE PENDENCY OF THE DISPUTE,
13 WILL AMERITECH BE SENDING OUT OVERDUE NOTICES ON
14 DISPUTED AMOUNTS IF IT'S A LEGITIMATE DISPUTE?

15 THE WITNESS: NO.

16 JUDGE ZABAN: OKAY.

17 MS. NAUGHTON: HOW DID YOU KNOW THAT WAS MY NEXT
18 QUESTION?

19 JUDGE ZABAN: I'M CLAIRVOYANT.

20 BY MS. NAUGHTON:

21 Q. AND MY OTHER -- MY THIRD QUESTION ON THAT IS
22 WHETHER ANY DELINQUENCY WOULD DISQUALIFY LEVEL 3 FOR

1 THE WAIVER, NO MATTER HOW SMALL THE DELINQUENCY OR
2 HOW SHORT THE PERIOD, THE AMOUNTS REMAIN THE
3 DELINQUENT; ISN'T THAT TRUE?

4 A. I DON'T KNOW.

5 Q. OKAY. LET'S SEE. LOOKING AT YOUR
6 SUPPLEMENTAL TESTIMONY, YOU REFER ON PAGES 4 AND 5
7 OF YOUR SUPPLEMENTAL TESTIMONY TO TWO PERIODS OF THE
8 GENERAL TERMS AND OR -- EXCUSE ME, TWO SECTIONS OF
9 THE GENERAL TERMS AND CONDITIONS, SECTION 9.2.1 AND
10 9.5, EACH OF WHICH ALLOW AMERITECH TO HAVE CERTAIN
11 RIGHTS WITH RESPECT TO A DELINQUENCY?

12 A. THAT'S CORRECT.

13 Q. NOW, NOTWITHSTANDING THE RELATIVELY
14 SUBSTANTIAL NOTICE AND CURE PERIODS PROTECTING
15 CLECS, OR LEVEL 3 IN THIS CASE, SET FORTH IN SECTION
16 9.2.1 AND 2, SECTION 9.5 OF THE GENERAL TERMS AND
17 CONDITIONS SETS FORTH A RIGHT OF AMERITECH TO
18 PROCEED TO EXERCISE ITS REMEDIES INCLUDING
19 DISCONTINUATION OF SERVICE WITHIN AS SHORT A PERIOD
20 AS 60 DAYS AFTER THE BILL IS DUE; ISN'T THAT TRUE?

21 A. YES. TO MY -- SUBJECT TO CHECK. I DON'T
22 HAVE THAT WITH ME, BUT I BELIEVE THAT ON --

1 Q. OKAY. WE CAN WALK THROUGH IT, IF YOU'D
2 LIKE.

3 A. I'M COMFORTABLE WITH IT.

4 Q. OKAY. ON PAGE 5 OF YOUR SUPPLEMENTAL
5 TESTIMONY --

6 A. HM-HMM.

7 Q. -- YOU STATE THAT THE APPEARANCE OF THE
8 PHRASE MUTUALLY-AGREED-TO PAYMENT ARRANGEMENTS IN
9 SECTION 9.54 (SIC) OF THE GENERAL TERMS AND
10 CONDITIONS RECOGNIZES THAT AMERITECH IS WILLING TO
11 WORK WITH CLECS WHO MAY NEED SOME CONSIDERATION
12 BEYOND THE BILL DUE DATE?

13 A. THAT'S CORRECT.

14 Q. IS THAT CORRECT?

15 A. THAT'S RIGHT.

16 Q. ISN'T IT TRUE THAT AMERITECH'S WILLINGNESS
17 TO WORK WITH CLECS IS COMPLETELY DISCRETIONARY ON
18 AMERITECH'S PART? THERE'S NO REQUIREMENT IN THE
19 CONTRACT?

20 A. THAT'S CORRECT, TO MY KNOWLEDGE.

21 Q. OKAY. MY NEXT SET OF QUESTIONS -- SHORTER
22 SET OF QUESTIONS IS ON ISSUE 19, ENHANCED EXTENDED

1 LENGTHS.

2 A. OKAY.

3 Q. ON PAGES 6 TO 7 OF YOUR SUPPLEMENTAL
4 TESTIMONY, YOU AGREE TO INCORPORATE THE FCC CRITERIA
5 BY REFERENCE INTO THE INTERCONNECTION AGREEMENT; IS
6 THAT CORRECT?

7 A. YES.

8 Q. CAN YOU PLEASE CLARIFY FOR ME, ARE YOU
9 AGREEING TO DELETE THE LANGUAGE THAT'S SET FORTH IN
10 SECTION 14.1 OF APPENDIX UNE CURRENTLY AND, INSTEAD,
11 ADD A PROVISION THAT SAYS THE FCC IS INCORPORATED BY
12 REFERENCE?

13 A. I'M NOT SURE WHAT 14.1 SAYS.

14 Q. OKAY. LET ME PUT IT THIS WAY:
15 TO THE EXTENT THAT ANYTHING CURRENTLY IN
16 THE CONTRACT IS -- CONFLICTS WITH THE FCC LANGUAGE,
17 ARE YOU AGREEING TO DELETE THAT?

18 A. IF IT CONFLICTS WITH THE FCC LANGUAGE, YES.

19 Q. THANK YOU.

20 DOES AMERITECH'S FORM OF CERTIFICATION
21 REQUIRE INFORMATION IN ADDITION TO THE FCC
22 REQUIREMENT THAT A LETTER COULD BE SENT STATING

1 UNDER WHICH USAGE OPTION THE CARRIER IS REQUESTING
2 THE CONVERSION?

3 A. I'M SORRY. I LOST TRACK OF YOU. COULD YOU
4 REPEAT THAT?

5 Q. THE FCC CRITERIA, MY UNDERSTANDING, AND I
6 BELIEVE YOU'VE AGREED TO THIS IN YOUR TESTIMONY,
7 ALLOWS A LETTER TO BE SENT TO AMERITECH BY THE CLEC
8 STATING JUST THE USAGE OPTION THAT THE CARRIER IS
9 REQUESTING?

10 A. RIGHT. THAT'S UNDER THE NEW RULES.

11 Q. THAT'S RIGHT.

12 AND AMERITECH HAS A FORM OF CERTIFICATION
13 ON ITS WEB SITE CURRENTLY THAT WAS ATTACHED TO, I
14 BELIEVE, MR. GATES' TESTIMONY.

15 MY QUESTION FOR YOU IS, DOES THIS FCC --
16 DOES THIS FORM OF CERTIFICATION -- AND I GUESS I
17 SHOULD EVEN ASK, WILL IT IN THE FUTURE, IN LIGHT OF
18 YOUR AGREEMENT TO ADOPT THE FCC'S LANGUAGE BY
19 REFERENCE, WILL IT ASK FOR ADDITIONAL INFORMATION IN
20 ADDITION TO THE LETTER?

21 A. I DON'T KNOW.

22 Q. DON'T KNOW. OKAY.

1 ASSUMING THAT IT DOES --

2 A. YES.

3 Q. -- IN YOUR OPINION, WHY SHOULD -- CAN YOU
4 ANSWER FOR ME WHY AMERITECH SHOULD REQUIRE MORE THAN
5 THE FCC DOES?

6 A. YES. THE REASON THAT WE WOULD BE REQUIRING
7 MORE HAS TO DO WITH OUR ABILITY TO DETERMINE WHETHER
8 WE NEED TO DO AN AUDIT OR NOT, BECAUSE BY GETTING
9 THAT ADDITIONAL INFORMATION, IT GIVES US ENOUGH
10 FURTHER INFORMATION TO SEE WHETHER THERE'S ANY
11 REASON FOR US TO QUESTION THE LETTER ITSELF.

12 Q. AND YOU'RE ASSUMING THEN THAT YOU OUGHT TO
13 BE ABLE TO HAVE THAT RIGHT, THE RIGHT TO DECIDE
14 WHETHER OR NOT YOU NEEDED TO GET AN AUDIT ON THIS
15 BASIS?

16 A. WELL, WE DO HAVE THE RIGHT TO AUDIT IF WE
17 BELIEVE THAT A CLEC IS NOT REALLY MEETING THE
18 NECESSARY CRITERIA. AND JUST BY THE LETTER ITSELF,
19 WE DON'T HAVE ANY REAL INFORMATION TO DO SO.

20 Q. SO IN A WAY, ARE YOU USING YOUR FORM OF
21 CERTIFICATION TO OBTAIN ADDITIONAL INFORMATION?

22 A. THE NECESSARY INFORMATION TO DETERMINE

1 WHETHER WE NEED TO DO ANYTHING ADDITIONAL.

2 Q. REGARDLESS OF WHETHER OR NOT IT RELATES TO
3 THE FCC REQUIREMENTS?

4 A. WELL --

5 Q. -- BECAUSE THIS IS ABOUT YOUR INTERNAL
6 DECISIONS?

7 A. -- I THINK IT STILL RELATES TO THE FCC, NOT
8 REQUIREMENT, BUT OPPORTUNITY FOR US TO AUDIT.

9 Q. YES, I CAN SEE THAT IT'S AN OPPORTUNITY FOR
10 THAT.

11 OKAY. MY LAST QUESTION, DOES AMERITECH
12 CURRENTLY -- OR SERIES OF QUESTIONS, I GUESS. DOES
13 AMERITECH CURRENTLY CHARGE TERMINATION CHARGES?

14 A. FOR SPECIAL ACCESS?

15 Q. THAT'S RIGHT.

16 A. YES.

17 Q. HOW MUCH ARE THEY?

18 A. IT DEPENDS ON THE TYPE OF CONTRACT THEY'VE
19 GOT.

20 IF IT IS A MONTH-TO-MONTH CONTRACT, THEN
21 IT DEPENDS ON WHETHER THE CUSTOMER HAS HAD THE
22 SERVICE IN FOR 30 DAYS. IF IT'S A THREE-YEAR

1 CONTRACT, I BELIEVE, THAT -- WELL, IF IT'S A TERM
2 CONTRACT, AT THE POINT IN TIME WHICH THE CUSTOMER
3 TERMINATES THE AGREEMENT --

4 Q. HM-HMM.

5 A. -- WE RECALCULATE WHAT THEY WOULD HAVE PAID
6 UNDER THE TYPE OF CONTRACT THAT THEY WOULD HAVE HAD
7 UNDER THE -- LIKE THE TIME THEY HAD IT AND RESTATE
8 THE -- DETERMINE THE TERMINATION LIABILITY ON THAT
9 BASIS.

10 Q. SO THE TERMINATION CHARGE IS A CALCULATION
11 OF WHAT WOULD HAVE BEEN PAID HAD THEY NOT TERMINATED
12 AND THEN THE CONTRACT HAD BEEN ALLOWED TO RUN ITS
13 FULL COURSE?

14 A. NOT REALLY. IT'S MORE -- IT'S -- IF THE --
15 FOR INSTANCE, LET'S SAY THEY HAD A FIVE -YEAR
16 AGREEMENT --

17 Q. HM-HMM.

18 A. -- AND THEY ONLY WENT THREE YEARS.

19 Q. HM-HMM.

20 A. WE WOULD RECALCULATE WHAT THEY WOULD HAVE
21 PAID OVER THAT THREE YEARS UNDER THE THREE -YEAR
22 AGREEMENT AS OPPOSED TO WHAT THEY PAID UNDER THE

1 FIVE-YEAR AGREEMENT, AND THE DIFFERENCE IN WHAT THEY
2 PAID IS WHAT THE DETERMINATION OF LIABILITY IS.

3 Q. BUT THEY'RE PAYING THE DIFFERENCE WHAT THEY
4 WOULD HAVE PAID HAD THEY ACTUALLY GONE OUT FOR FIVE
5 YEARS AND WHAT THEY DID PAY?

6 A. NO.

7 Q. NO?

8 A. NO. THEY PAY THE DIFFERENCE WHAT THEY WOULD
9 HAVE PAID FOR THE THREE YEARS UNDER A THREE-YEAR
10 AGREEMENT VERSUS WHAT THEY WOULD HAVE PAID OVER THE
11 THREE YEARS UNDER A FIVE-YEAR AGREEMENT.

12 Q. OH, I THINK I'M UNDERSTANDING.

13 SO WHAT THEY WOULD HAVE PAID UNDER A
14 THREE-YEAR AGREEMENT WOULD HAVE HAD PERHAPS
15 INCREASED CHARGES?

16 A. THAT'S CORRECT.

17 Q. I SEE. SO, IN A WAY, THIS MAY BE DIFFICULT
18 FOR YOU TO ANSWER, BUT I'LL GIVE IT A SHOT.

19 IS THERE SOME WAY IN WHICH THEN THE
20 TERMINATION CHARGE IS PRESENT VALUED, IF YOU'RE
21 FAMILIAR WITH THAT TERM?

22 A. YEAH, I'M FAMILIAR WITH THE TERM. I DON'T

1 BELIEVE IT IS.

2 Q. OKAY.

3 A. I BELIEVE IT'S JUST A STRICT CALCULATION.

4 Q. ARE THERE ANY TERMINATION CHARGES TO VOLUME,
5 VOLUME CONTRACTS, CONTRACTS BASED ON VOLUME AS
6 OPPOSED TO A TERM CONTRACT?

7 A. I WOULD -- I WOULD BELIEVE THERE ARE. AND,
8 AGAIN, IT WOULD BE BASED ON WHAT THE DIFFERENTIAL --
9 I GUESS IF IT'S A MONTH-TO-MONTH CONTRACT, AGAIN, AS
10 LONG AS THEY'VE SATISFIED THE MINIMUM MONTHS, THEN
11 THERE PROBABLY WOULD NOT BE, AS LONG AS THEY'VE BEEN
12 OUT THERE 30 DAYS. IF IT'S A THREE OR FIVE -YEAR
13 AGREEMENT, THEN IT WOULD BE BASED ON WHAT I JUST
14 TALKED ABOUT EARLIER.

15 MS. NAUGHTON: OKAY. THANK YOU.

16 THAT'S IT.

17 JUDGE ZABAN: I HAVE A COUPLE QUESTIONS,

18 MR. SILVER.

19 THE WITNESS: SURE.

20

21

22

1 EXAMINATION

2 BY

3 JUDGE ZABAN:

4 Q. MR. SILVER, IN YOUR TESTIMONY, YOU SAY THAT
5 IT'S COMMON PRACTICE TO CHARGE INDIVIDUALS OF
6 BUSINESSES A DEPOSIT WHEN THEY SIGN ON WITH
7 AMERITECH; IS THAT CORRECT?

8 A. RIGHT.

9 Q. THAT'S ALSO BASED ON THE CREDIT HISTORY?

10 A. YES.

11 Q. AND WHAT DETERMINE -- HOW DOES AMERITECH
12 DETERMINE WHETHER OR NOT A BUSINESS NEEDS TO PUT UP
13 A DEPOSIT, FOR EXAMPLE?

14 A. MY UNDERSTANDING -- AND I'M NOT SURE ABOUT
15 THIS, BUT BASED ON MY PERSONAL -- YOU KNOW, A
16 PERSONAL THING, IT'S BASED ON WHETHER THE CUSTOMER
17 HAS HAD ANY PRIOR FAILURE TO PAY IN ANY EARLIER
18 INSTANCES.

19 Q. NOW, DO THEY LOOK ONLY AT THE HISTORY WITH
20 AMERITECH OR DO THEY LOOK AT THE PERSON'S ENTIRE
21 CREDIT HISTORY?

22 A. I DON'T KNOW.

1 Q. OKAY. WHAT I'M TRYING TO ESTABLISH, IS
2 THERE A DIFFERENT STANDARD FOR BUSINESSES THAN THERE
3 WOULD BE FOR CLECS, FOR EXAMPLE?

4 A. I WOULD SAY NO.

5 Q. THEN THE NEXT QUESTION I HAVE IS, YOU TALK
6 ABOUT AMERITECH HAD TO WRITE OFF \$20 MILLION IN
7 CLEC-RELATED BAD DEBT.

8 OVER THAT SAME PERIOD OF TIME,
9 APPROXIMATELY HOW MUCH BAD DEBT DID AMERITECH WRITE
10 OFF TOTAL, DO YOU KNOW?

11 A. NO, I DON'T.

12 Q. AND WHAT PERCENTAGE OF THE BAD DEBT DID THEY
13 WRITE OFF WAS THE TOTAL REVENUE RECEIVED FROM THE
14 CLECS?

15 A. I DON'T KNOW THAT EITHER, BUT THE POINT IS
16 WE STILL HAD -- IT'S STILL A LOSS TO AMERITECH AND
17 THAT -- THAT'S WHAT WE'RE TRYING TO AVOID.

18 Q. OKAY. BUT YOU LOSE MONEY FROM BUSINESSES AS
19 WELL, CORRECT?

20 A. THAT'S RIGHT.

21 Q. WHAT I'M TRYING TO FIGURE OUT HERE AND I
22 CAN'T TELL FROM YOUR TESTIMONY, DOES THE CLECS

1 PROVIDE AN EXTRAORDINARY AMOUNT OF RISK THAT YOU
2 DON'T HAVE IN REGULAR BUSINESS OR IS THIS ABOUT
3 AVERAGE WHAT YOU HAVE FOR REGULAR BUSINESSES OR --

4 A. I DON'T KNOW. I DON'T KNOW.

5 Q. OKAY. DO YOU KNOW -- AND SINCE THIS TIME IN
6 '97, AMERITECH'S CLECS HAVE COMPILED APPROXIMATELY
7 30 BANKRUPTCIES. DO YOU KNOW THE TOTAL AMOUNT OF
8 CLECS THAT AMERICA (SIC) HAS DONE BUSINESS WITH
9 SINCE 1997?

10 A. NO.

11 Q. OKAY. WHEN YOU TALK ABOUT DOING A CREDIT
12 CHECK ON THESE COMPANIES, JUST SO I UNDERSTAND IT,
13 THERE'S A DISTINCTION BETWEEN THE ABILITY TO PAY AND
14 THE WILLINGNESS TO PAY; IS THAT CORRECT?

15 A. ABSOLUTELY.

16 Q. AND SO FROM YOUR STANDPOINT, IT'S NOT JUST
17 THE ABILITY TO PAY THESE COMPANIES, IT'S HOW THEY
18 PAY THEIR BILLS AND THEIR WILLINGNESS TO PAY THEIR
19 BILLS ON TIME; IS THAT CORRECT --

20 A. THAT'S CORRECT.

21 JUDGE ZABAN: -- AS YOU LOOK AT -- OKAY. I HAVE
22 NOTHING FURTHER.

1 MR. COVEY: CAN WE HAVE A COUPLE MINUTES?
2 (RECESS TAKEN.)
3 JUDGE ZABAN: OKAY. COUNSEL, ARE YOU READY?
4 MR. COVEY: WE HAVE NO REDIRECT FOR MR. SILVER.
5 JUDGE ZABAN: OKAY. ANYTHING FURTHER OF
6 MR. SILVER?
7 OKAY. MR. SILVER, YOU'RE EXCUSED.
8 ACTUALLY, I BELIEVE BEFORE YOU CALL YOUR
9 FIRST WITNESS, MS. MORAN HAS A COUPLE QUESTIONS OF
10 MR. PANFIL; IS THAT CORRECT?
11 JUDGE MORAN: YES. JUST ONE OR TWO, IF I CAN
12 RECALL. AND YOU'RE STILL UNDER OATH.
13 MR. PANFIL: SHOULD I STAND OVER HERE?
14 JUDGE MORAN: YES. YES. THAT'S A GOOD PLACE.
15 ERIC PANFIL,
16 RECALLED AS A WITNESS HEREIN, HAVING BEEN PREVIOUSLY
17 DULY SWORN, WAS FURTHER EXAMINED AND TESTIFIED AS
18 FOLLOWS:
19 EXAMINATION
20 BY
21 JUDGE MORAN:
22 Q. DO YOU HAVE ANY -- MY NOTES AND I'M

1 DISORIENTED, SO I DON'T KNOW EXACTLY WHAT MY THOUGHT
2 WAS AT THE TIME.

3 YOU SAID SOMETHING ABOUT A DIFFERENCE
4 BETWEEN ISP NUMBERS AND 800 -- 1-800 NUMBERS.

5 A. YES.

6 Q. AND I'M WONDERING IF YOU CAN ILLUSTRATE FOR
7 ME THE DIFFERENCE BETWEEN THOSE OR THE MECHANICS OF
8 ONE OR THE OTHER?

9 A. OKAY.

10 Q. THANKS.

11 A. WHAT'S HAPPENING IF -- MAYBE JUST TO REVIEW
12 WHAT I UNDERSTAND TO BE ON HERE IS THAT -- BECAUSE
13 THERE'S MORE STUFF ON HERE THAN I THINK WE NEED,
14 THAT WHEN, FOR EXAMPLE, LEVEL 3 IS SERVING AN ISP
15 WHO IS LOCATED IN CHICAGO NEAR LEVEL 3'S SWITCH,
16 THAT THEY WOULD ASSIGN TO THAT ISP A NUMBER OF
17 DIFFERENT TELEPHONE NUMBERS, ONE OF WHICH WOULD BE A
18 TELEPHONE NUMBER THAT IS ASSOCIATED WITH A RATING
19 POINT IN ELGIN RATHER THAN A RATING POINT IN
20 CHICAGO.

21 THAT'S WHAT WE GENERALLY CALL -- WHAT WE
22 AT LEAST HAVE TERMED THE VIRTUAL FX BECAUSE IT'S --

1 EVERYTHING IS STILL DOWN HERE. THERE'S REALLY NO
2 PHYSICAL PRESENCE OF THAT CUSTOMER IN ELGIN.

3 AND THE WAY THAT THAT WORKS THEN IS
4 THE -- OUR CUSTOMER, THE CUSTOMER IN ELGIN, DIALS
5 THAT NUMBER AND THE CALL IS SWITCHED UNDER THIS
6 DIAGRAM THROUGH THE TANDEM, THROUGH OUR TRUNKING
7 NETWORK TO THE POINT OF INTERFACE WHICH IS NEAR THE
8 SWITCH HERE AND IS HANDED OFF THERE.

9 AND THE OTHER THING WE NEED TO KNOW
10 ASSOCIATED WITH THAT IS WHAT ARE THE COMPENSATION
11 ARRANGEMENTS, OBVIOUSLY, FOR THIS -- SOME OF THIS IS
12 WHAT'S IN DISPUTE THE WAY IT WORKS TODAY. AND THE
13 WAY LEVEL 3 WOULD LIKE IT TO WORK IS THAT WE CARRY
14 THE CALL ALL THE WAY HERE, AND WE PAY THEM
15 RECIPROCAL COMPENSATION OR SOME FORM OF COMPENSATION
16 FOR HAVING THE CALL DELIVERED TO THEIR CUSTOMER WHO
17 HAS THE ELGIN TELEPHONE NUMBER.

18 WHAT WE HAVE REQUESTED IS THAT THEY
19 COMPENSATE US FOR THIS TRANSMISSION FACILITY, THE
20 USE OF THAT TRANSMISSION FACILITY, AND PERHAPS THE
21 TANDEM SWITCHING, AND THAT WE NOT PAY THEM
22 COMPENSATION FOR THAT BECAUSE IT IS NOT A LOCAL

1 CALL, BUT AN INTEREXCHANGE -- A NONLOCAL CALL
2 BETWEEN ELGIN AND CHICAGO, WHICH WOULD NOT BE A
3 LOCAL CALL ABSENT THE USE OF THE FX-LIKE OR VIRTUAL
4 FX PREFIX THAT THE CALL IS DIRECTED TO.
5 OKAY.
6 Q. OKAY. NOW --
7 A. OKAY SO FAR?
8 Q. OKAY.
9 A. NOW, THE WAY 800 SERVICE WORKS --
10 Q. DO YOU NEED A NEW DRAWING?
11 A. NO. ACTUALLY, IT'S VERY SIMILAR.
12 Q. OKAY. THANKS.
13 A. REALLY, THE ONLY DIFFERENCE IS -- AND THERE
14 ARE A NUMBER OF WAYS THAT 800 SERVICE CAN BE
15 PROVIDED, DEPENDING ON WHETHER THERE'S A LONG
16 DISTANCE CARRIER INVOLVED OR SOMETHING LIKE THAT.
17 BUT ASSUMING THAT IT WAS GOING TO BE A
18 DIRECT SUBSTITUTE FOR WHAT THIS VIRTUAL FX SERVICE
19 IS DOING, THE WAY I UNDERSTAND IT GENERALLY
20 PROVISIONED, IS THIS: THE CUSTOMER HERE WOULD --
21 RATHER THAN DIALING AN ELGIN TELEPHONE WOULD DIAL AN
22 800 NUMBER.

1 Q. OKAY.

2 A. THE ONE REAL TECHNOLOGICAL DIFFERENCE IS
3 THAT HAVING RECEIVED AN 800 NUMBER HERE IN OUR
4 CENTRAL OFFICE, WE WOULD SAY, OH, THAT'S AN 800
5 NUMBER. WE WOULD SEND OUT -- THE OFFICE WOULD SEND
6 OUT A QUERY TO A DATABASE CALLED THE 800 DATABASE
7 THAT'S EMBEDDED IN THE SIGNALLING SYSTEM. IT WOULD
8 RECEIVE BACK A RESPONSE THAT SAYS THAT 800 NUMBER
9 TRANSLATES TO THIS TEN-DIGIT NORMAL LOCAL PHONE
10 NUMBER, AND THAT WOULD NORMALLY BE A NUMBER
11 ASSOCIATED WITH THE CENTRAL OFFICE WHERE THE 800
12 SERVICE CUSTOMER IS.

13 THEN THIS SWITCH WOULD SAY, OKAY. NOW, I
14 KNOW THE REGULAR TEN-DIGIT LOCAL DIALABLE ROUTING
15 NUMBER TO SEND THAT CALL. IT WOULD SEND IT THROUGH
16 EXACTLY THE SAME ROUTE THROUGH THE POI AND TO, IN
17 THIS EXAMPLE, LEVEL 3, AND THEN BE TERMINATED TO
18 LEVEL 3'S CUSTOMER.

19 UNDER OUR AGREEMENTS AND THE WAY THAT
20 IT'S HANDLED WITH EVEN NONCLECS WITH INDEPENDENT
21 TELEPHONE COMPANIES OR WHOEVER, THE WAY THE
22 COMPENSATION WORKS FOR THAT IS THAT THIS CUSTOMER

1 PAYS NOTHING. THIS CUSTOMER HERE PAYS, ESSENTIALLY,
2 A HUNDRED PERCENT OF THE COST OF THAT INCOMING CALL,
3 AND WHAT THAT INCLUDES IS THAT
4 LEVEL 3, IN THIS CASE -- EXAMPLE, DOES NOT BILL
5 ANYTHING TO AMERITECH WHOSE CUSTOMER ORIGINATED THE
6 CALL.

7 IN FACT, THE REVERSE IS TRUE. IT BECOMES
8 LIKE AN ACCESS CHARGE, AND LEVEL 3 IS TREATED LIKE A
9 LONG-DISTANCE CARRIER AND PAYS WHAT IS GENERALLY
10 REFERRED TO AS AN ORIGINATING ACCESS CHARGE TO
11 AMERITECH FOR SWITCHING IT THROUGH THIS SWITCH AND
12 TRANSPORTING IT ALL THE WAY TO HERE.

13 SO IT'S A LITTLE BIT DIFFERENT THAN THE
14 FX SITUATION, EVEN THE WAY THAT WE PROPOSE THAT FX
15 BE HANDLED, BECAUSE WE DON'T PROPOSE THAT LEVEL 3
16 WOULD BE CHARGED IN THE FX SITUATION FOR ANY OF THE
17 COSTS OF OUR SWITCHING THE CALL. WE THINK WE FAIRLY
18 RECOVER THAT FROM OUR CHARGES TO THE END USER
19 BECAUSE THE END USER DOES PAY A LOCAL CALL CHARGE,
20 YOUR BASIC PER-CALL LOCAL CALL RATE.

21 BUT THAT, SORT OF IN PARALLEL WITH THE
22 800 SERVICE, IS THE WAY THAT WE THINK FOREIGN

1 EXCHANGE SERVICE WORKS WHEN WE PROVIDE IT WITH A
2 FULL FACILITY THAT THIS CUSTOMER HERE OUGHT TO BE
3 RESPONSIBLE FOR THE -- I.E., FOREIGN PORTION OF THE
4 CALL, THE PART OF THE CALL THAT TAKES IT FROM THE
5 LOCAL AREA OF ELGIN TO THE DISTANT AREA WHERE THE
6 ACTUAL CUSTOMER IS, SO THAT'D BE THE LONG DISTANCE
7 PART OF THE CALL.

8 Q. CAN I ASK YOU ONE QUESTION?

9 WHAT IS THE MONEY DIFFERENCE BETWEEN --
10 LET'S SEE. THERE'S A DIFFERENCE BETWEEN COST AND
11 PAYMENT BETWEEN --

12 A. RIGHT.

13 Q. -- PAYMENT ON A -- MAYBE BETWEEN COST ON AN
14 800 --

15 A. YEAH.

16 Q. -- VERSUS AN FX?

17 A. THE UNDERLYING COSTS OF THOSE TWO THINGS ARE
18 PROBABLY FAIRLY SIMILAR OTHER THAN THE ADDITIONAL
19 COST OF THE DATABASE LOOK-UP FOR THE 800 SERVICE.

20 BUT THE WAY THAT THE COSTS ARE ALLOCATED
21 TO THE DIFFERENT CUSTOMERS ARE DIFFERENT. SO THAT,
22 AGAIN, IF IT'S AN 800 CALL, THIS CUSTOMER IS PAYING

1 FOR 100 PERCENT OF IT AND THE ORIGINATING CALLER --

2 Q. RIGHT.

3 A. -- PAYS NOTHING. AND -- BUT THE COST THAT
4 THEY HAVE TO COVER IS ABOUT THE SAME AS THE TOTAL
5 COST IN THE OTHER SENSE. AND HOW THEY CHOOSE TO
6 RECOVER IT FROM THAT CUSTOMER, OF COURSE, IS UP TO
7 THEM. THAT'S A COMPETITIVE SERVICE.

8 WITH THE FX, THEY WOULD, AS WE PROPOSE
9 IT, THIS CARRIER, LEVEL 3 IN THIS EXAMPLE, WOULD
10 BEAR A BIT LESS COST. THEY WOULD NOT BEAR THE COST
11 OF SWITCHING OVER HERE.

12 Q. RIGHT.

13 A. AND SO THEY WOULD --

14 Q. WOULD THE PAYMENT ACROSS THE TANDEM BE THE
15 SAME?

16 A. I WOULD SAY IT MIGHT VERY WELL BE THE SAME.
17 IT CERTAINLY WOULD NOT BE MORE FOR THE FX CASE.

18 I'M NOT SURE THAT -- THE AGREEMENT, AS WE
19 PROPOSED IT, IS NOT 100 PERCENT SPECIFIC ON WHAT
20 RATES WOULD APPLY TO THIS PIECE OF THE CALL. THEY
21 WOULD CERTAINLY, I CAN GUARANTEE, BE NO HIGHER THAN
22 ACCESS RATES.

1 IT'S POSSIBLE THAT IT MIGHT BE
2 APPROPRIATE THAT SOMETHING LIKE TELRIC RATES FROM
3 THE AGREEMENT BE USED, BUT THAT'S LEFT A LITTLE BIT
4 UNCLEAR JUST BECAUSE IT'S WRITTEN TO BE GENERALLY
5 APPLICABLE.

6 YOU'RE NOT SURE WHAT'S GOING TO BE IN THE
7 AGREEMENT, WHAT'S NOT GOING TO BE IN THE AGREEMENT,
8 DEPENDING ON ANY CARRIER'S SPECIFIC BUSINESS PLAN.
9 SO IT BASICALLY SAYS TARIFFED RATES OR RATES AGREED
10 TO BY THE PARTIES, BUT IT WOULD EITHER BE ACCESS
11 RATES OR SOME RATE THAT'S ALREADY IN THE CONTRACT,
12 WHICH IS THE TELRIC RATE. SO IT'D BE TO NO MORE
13 THAN A FOREIGN EXCHANGE SITUATION. IT MIGHT BE
14 LESS.

15 Q. LET ME ASK YOU JUST ONE MORE THING, IF YOU
16 KNOW.

17 WHEN DID THIS VIRTUAL FX CONCEPT COME
18 INTO PLAY?

19 DO YOU KNOW WHAT YEAR?

20 A. I DON'T KNOW SPECIFICALLY, BUT IT'S
21 CERTAINLY -- I MEAN, OBVIOUSLY, THE BIG DRIVER FOR
22 THAT HAS BEEN THE USE OF THAT KIND OF AN ARRANGEMENT

1 FOR PROVIDING INTERNET ACCESS SERVICE BY CLECS, BUT

2 THAT'S --

3 Q. YEAH, BUT DO YOU KNOW EXACTLY WHAT YEAR THIS

4 THING MATURED OR --

5 A. NOT SPECIFICALLY, NO.

6 JUDGE MORAN: NO?

7 OKAY. THANKS.

8 JUDGE ZABAN: OKAY. I HAVE A COUPLE QUESTIONS.

9 THE WITNESS: DO I HAVE TO SIT DOWN?

10 JUDGE ZABAN: NO, NO. YOU CAN LISTEN TO THIS.

11 EXAMINATION

12 BY

13 JUDGE ZABAN:

14 Q. THIS IS -- THIS VIRTUAL FX IS ACTUALLY A

15 BENEFIT TO YOUR CUSTOMER AS WELL; IS THAT CORRECT?

16 A. WELL, IT'S CERTAINLY PROVIDING -- ASSUMING

17 THIS CUSTOMER WANTS TO MAKE THE CALL, THEN --

18 Q. WHAT I'M ASKING IS, BASICALLY, WE DISCUSSED

19 IF THIS WAS -- IF THIS IS A TOLL CALL, ALL RIGHT,

20 THEN YOUR CUSTOMERS WOULD BE LESS INCLINED TO DO

21 THIS; IS THAT CORRECT?

22 A. YES.

1 Q. BECAUSE OF COST?

2 A. YES.

3 Q. ALL RIGHT. AND YOU DO CHARGE FROM YOUR
4 CUSTOMER TO THE EO; IS THAT CORRECT, TO YOUR OFFICE,
5 THE CENTRAL OFFICE?

6 A. WELL, THIS PIECE OF IT HERE IS THEIR
7 DEDICATED LOOP. THEY PAY FOR THAT ON A REGULAR
8 BASIS.

9 Q. OKAY. BUT YOUR CUSTOMER PAYS FOR THAT; IS
10 THAT CORRECT?

11 A. YES.

12 Q. DOES THE COST FROM YOUR CUSTOMER IN THE
13 DEDICATED LOOP, IS THAT MORE THAN YOUR COST TO
14 TRANSFER FROM THE TANDEM IN ELGIN TO THE TANDEM IN
15 CHICAGO?

16 ARE YOU LOSING MONEY ON THE TRANSFERS OR
17 ARE YOU STILL MAKING A LITTLE MONEY?

18 A. IT'S GOING TO DEPEND ON CASE TO CASE.

19 I MEAN, WHAT I THINK I SAID EARLIER IS,
20 AS FAR AS THESE LOOPS ARE CONCERNED, SOME OF THEM,
21 DEPENDING ON WHERE IT IS, WE MAKE MONEY ON. SOME OF
22 THEM WE DON'T MAKE MONEY ON. IT DEPENDS ON THE

1 LENGTH OF THE LOOP AND THINGS LIKE THAT.

2 Q. WHAT I'M -- OKAY. SO, IN OTHER WORDS, ON
3 THE CASES THAT YOU LOSE MONEY, ALL RIGHT, THAT'S NOT
4 BECAUSE THEY'RE CONNECTED TO AN ISP. THAT'S JUST
5 BECAUSE THEY LOSE MONEY, RIGHT?

6 A. AS FAR AS WHETHER WE MAKE MONEY ON THIS LOOP
7 OR NOT, YES.

8 Q. RIGHT. OKAY. THAT'S NOT --

9 A. RIGHT.

10 Q. WHAT I'M SAYING IS, IF YOU'RE MAKING MONEY
11 ON THE LOOP, ALL RIGHT, AND YOUR CUSTOMERS ARE USING
12 THE LOOPS MORE BECAUSE THEY'RE NOW ABLE TO MAKE
13 THESE CALLS TO THE INTERNET --

14 A. HM-HMM.

15 Q. -- OKAY, YOU'RE STILL MAKING A PROFIT ON
16 THESE CALLS; IS THAT CORRECT?

17 A. WELL, WE'RE STILL MAKING THE SAME PROFIT ON
18 THE LOOP, BUT MAKING THE CALLS THEMSELVES GENERATES
19 ADDITIONAL COSTS IN THE CENTRAL OFFICE.

20 Q. WELL, THAT'S WHAT I'M ASKING.

21 DOES IT RESULT IN YOUR LOSING MONEY ON
22 THESE CALLS?

1 A. I BELIEVE IN MOST CASES, WHEN YOU'RE TALKING
2 PARTICULARLY ABOUT ISP DURATION CALLS, I.E., CALLS
3 THAT TAKE ON AVERAGE -- THAT ARE UP FOR, ON AVERAGE,
4 30 MINUTESM FOR WHICH WE RECEIVE ONLY THE -- STILL
5 THE SAME FOUR TO FIVE CENTS PER CALL THAT WE RECEIVE
6 FOR A THREE-MINUTE CALL, THAT WE ARE NOT MAKING
7 MONEY ON THOSE CALLS. WE ARE IN MOST CASES LOSING
8 MONEY ON THOSE CALLS --

9 Q. OKAY.

10 A. -- THE CALL ITSELF. SETTING ASIDE WHETHER
11 WE DO OR DO NOT MAKE MONEY ON THE LOOP, WHICH IS A
12 SEPARATE THING.

13 Q. WELL, THAT'S WHAT I'M ASKING YOU, BECAUSE
14 I -- DO YOU KNOW IF THERE ARE ANY FIGURES OUT THERE
15 THAT SHOW WHETHER OR NOT AT&T OR AMERITECH IS LOSING
16 MONEY ON THESE CALLS, OKAY?

17 A. WELL, THERE'S -- I MEAN, IN ONE OF THE
18 SCHEDULES ON MY TESTIMONY THERE NEAR THE BOTTOM, ON
19 THE BOTTOM OF EACH OF THOSE, THERE'S A BUNCH OF
20 SPREADSHEETS. I THINK THERE'S SCHEDULE 3 WHICH HAS
21 SOME SPREADSHEETS ON THE END, AND THERE'S SCHEDULE 4
22 AND 5, WHICH -- I THINK IT'S SCHEDULE 5 DEALS WITH

1 RESIDENTIAL ONLY.

2 WHAT IT SHOWS AT THE BOTTOM IS WHAT IS
3 THE COST OF JUST ORIGINATING; I'M JUST SENDING
4 THROUGH THIS SWITCH. AND I BELIEVE TRANSPORTING,
5 PUTTING ON THIS MUCH TRANSPORT FOR -- AND IT'S NOT
6 ALWAYS FOREIGN EXCHANGE TRANSPORT. JUST AN AVERAGE
7 AMOUNT OF TRANSPORT, IT SHOWS WHAT THE COST OF THAT
8 IS ACCORDING TO THE CALCULATIONS THAT I DID. AND I
9 THINK THAT COMES OUT TO SOMEWHERE IN THE RANGE OF
10 SIX OR SEVEN OR EIGHT CENTS PER CALL, AND THE
11 REVENUE WE RECEIVE FOR YOUR BASIC RESIDENTIAL BAND A
12 LOCAL CALL IS LESS THAN A NICKEL.

13 JUDGE ZABAN: OKAY. THANK YOU.

14 (WHEREUPON, STAFF
15 EXHIBIT NO. 2.0 WAS
16 MARKED FOR IDENTIFICATION
17 AS OF THIS DATE.)

18

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22

1 TORTSEN CLAUSEN,
2 CALLED AS A WITNESS HEREIN, HAVING BEEN FIRST DULY
3 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION

5 BY

6 MS. NAUGHTON:

7 Q. OKAY. WOULD YOU PLEASE STATE YOUR NAME FOR
8 THE RECORD SPELLING YOUR LAST NAME?

9 A. MY NAME IS TORTSEN CLAUSEN. MY LAST NAME IS
10 SPELLED C-L-A-U-S-E-N.

11 Q. BY WHOM ARE YOU EMPLOYED?

12 A. I'M EMPLOYED BY THE ILLINOIS COMMERCE
13 COMMISSION.

14 Q. WHAT IS YOUR POSITION WITH THE ILLINOIS
15 COMMERCE COMMISSION?

16 A. I'M A POLICY ANALYST WITH OUR TELECOM --
17 TELECOMMUNICATIONS DIVISION.

18 Q. YOU HAVE BEFORE YOU A VERIFIED STATEMENT
19 CONSISTING OF A COVER PAGE AND TEN PAGES OF TEXT IN
20 QUESTION AND ANSWER FORM WHICH HAVE BEEN MARKED BY
21 THE COURT REPORTER AS ICC STAFF EXHIBIT 2.0.

22 WAS THIS DOCUMENT PREPARED BY YOU OR

1 UNDER YOUR DIRECTION?

2 A. YES, IT WAS.

3 Q. DOES THIS DOCUMENT CONSTITUTE YOUR VERIFIED
4 STATEMENT OF YOUR DIRECT TESTIMONY IN THIS
5 PROCEEDING?

6 A. YES, IT DOES.

7 Q. ARE THERE ANY CHANGES YOU WOULD LIKE TO MAKE
8 TO THESE DOCUMENTS?

9 A. THE ONLY CHANGE I WOULD LIKE TO MAKE, I ADD
10 A HEADER TO THE PAGES AND I ADDED PAGE NUMBERS.

11 Q. THANK YOU.

12 IF I WERE TO ASK YOU THESE SAME QUESTIONS
13 TODAY, WOULD YOUR ANSWERS BE THE SAME?

14 A. YES, THEY WOULD BE.

15 MS. NAUGHTON: WE NOW SUBMIT ICC STAFF EXHIBITS
16 FOR ADMITTANCE INTO THE RECORD AND TENDER THE
17 WITNESS FOR CROSS.

18 JUDGE ZABAN: MR. CLAUSEN, YOU'VE PREVIOUSLY
19 BEEN SWORN AND YOU ARE UNDER OATH; IS THAT CORRECT?

20 MS. NAUGHTON: ACTUALLY, I DON'T THINK ANY OF
21 THE STAFF WITNESSES HAVE BEEN SWORN.

22 JUDGE ZABAN: SO NOW WE NEED TO SWEAR THEM AND

1 THEN -- OTHERWISE, IT DOESN'T MEAN ANYTHING.

2 SO WOULD THE STAFF WITNESSES PLEASE RAISE

3 YOUR RIGHT HAND, THE PEOPLE THAT ARE GOING TO

4 TESTIFY TODAY.

5 JUDGE MORAN: MR. CLAUSEN AND --

6 MR. GREEN: AND BUD GREEN .

7 JUDGE ZABAN: OKAY. WELL, LET'S DO

8 MR. CLAUSEN.

9 (WITNESS SWORN.)

10 JUDGE ZABAN: YOU MAY SIT DOWN.

11 OKAY. AND YOU WERE ASKED A SERIES OF

12 QUESTIONS BY YOUR COUNSEL, MS. NAUGHTON; IS THAT

13 CORRECT, PREVIOUSLY?

14 THE WITNESS: YES.

15 JUDGE ZABAN: AND IF YOU WERE TO BE ASKED THOSE

16 SAME QUESTIONS NOW UNDER OATH, WOULD YOUR ANSWERS BE

17 SUBSTANTIALLY THE SAME AS YOU GAVE MS. NAUGHTON

18 PREVIOUSLY?

19 THE WITNESS: YES, THEY WOULD BE.

20 JUDGE ZABAN: OKAY. NOW, WE CAN TENDER THE

21 WITNESS.

22 MS. NAUGHTON: I TENDER THE WITNESS FOR

1 CROSS-EXAMINATION, BUT IT'S MY UNDERSTANDING,
2 CORRECT ME IF I'M WRONG, COUNSEL, THAT THERE IS NO
3 CROSS?
4 MR. FRIEDMAN: NO CROSS FOR MR. CLAUSEN.
5 MS. NAUGHTON: OKAY. NO CROSS FOR MR. CLAUSEN.
6 JUDGE ZABAN: OKAY. AND YOU'RE NOW ASKING LEAVE
7 TO ADMIT THIS TESTIMONY IN EVIDENCE?
8 MS. NAUGHTON: YES, I AM.
9 JUDGE ZABAN: OKAY. IT WILL BE GRANTED.
10 ANY OBJECTIONS?
11 MR. ROMANO: NO.
12 JUDGE ZABAN: SO THAT WAS PREVIOUSLY MARKED AS
13 ICC STAFF EXHIBIT NO. 2?
14 JUDGE MORAN: 2.0.
15 MS. NAUGHTON: 2.0.
16 (WHEREUPON, STAFF
17 EXHIBIT NO. 2.0 WAS
18 ADMITTED INTO EVIDENCE AS
19 OF THIS DATE.)
20 MS. NAUGHTON: NEXT, I'D LIKE TO CALL BUD GREEN.
21 JUDGE ZABAN: MR. GREEN, HAVE YOU PREVIOUSLY
22 BEEN SWORN?

1 THE WITNESS: NO, I HAVE NOT.

2 JUDGE ZABAN: OKAY. WOULD YOU RAISE YOUR RIGHT

3 HAND.

4 (WHEREUPON, STAFF

5 EXHIBIT NO. 3.0 WAS

6 MARKED FOR IDENTIFICATION

7 AS OF THIS DATE.)

8 (WITNESS SWORN.)

9 BUD GREEN,

10 CALLED AS A WITNESS HEREIN, HAVING BEEN FIRST DULY

11 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY

14 MS. NAUGHTON:

15 Q. WOULD YOU PLEASE STATE YOUR NAME FOR THE

16 RECORD, SPELLING YOUR LAST NAME?

17 A. OKAY. MY NAME IS BUD GREEN, JUST LIKE THE

18 COLOR, G-R-E-E-N.

19 Q. IS BUD GREEN THE SAME AS H.K. BUD GREEN?

20 A. IT'S THE SAME AS H.K. BUD GREEN. BUD IS A

21 NICKNAME.

22 Q. THANK YOU.

1 BY WHOM ARE YOU EMPLOYED?

2 A. I'M EMPLOYED BY THE ILLINOIS COMMERCE
3 COMMISSION.

4 Q. WHAT IS YOUR POSITION WITH THE ILLINOIS
5 COMMERCE COMMISSION?

6 A. I AM THE CHIEF ENGINEER FOR
7 TELECOMMUNICATIONS.

8 Q. YOU HAVE BEFORE YOU ONE DOCUMENT CONSISTING
9 OF A COVER PAGE AND SIX PAGES OF TESTIMONY IN
10 QUESTION AND ANSWER FORM.

11 WAS THIS DOCUMENT PREPARED BY YOU OR
12 UNDER YOUR DIRECTION?

13 A. YES, IT WAS.

14 Q. DOES THIS DOCUMENT CONSTITUTE YOUR TESTIMONY
15 IN THIS PROCEEDING?

16 A. YES, IT DOES.

17 Q. ARE THERE ANY CHANGES YOU WOULD LIKE TO MAKE
18 TO THIS DOCUMENT?

19 A. YES, THERE ARE.

20 Q. COULD YOU LET US KNOW WHAT THEY ARE?

21 A. OKAY. A SPELLING CORRECTION ON PAGE 5, "99
22 CALLS" RATHER THAN "99 CALL."

1 ALSO, AS WITH TORTSEN, WE HAVE ADDED THE
2 HEADERS UP HERE JUST FOR CLARIFICATION.

3 Q. THANK YOU.

4 IF I WERE TO ASK YOU THESE SAME QUESTIONS
5 TODAY, WOULD YOUR ANSWERS BE THE SAME?

6 A. YES, THEY WOULD.

7 MS. NAUGHTON: WE NOW SUBMIT ICC STAFF
8 EXHIBIT 3.0 FOR ADMITTANCE INTO THE RECORD AND
9 TENDER THE WITNESS, BUD GREEN, FOR
10 CROSS-EXAMINATION.

11 MR. FRIEDMAN: NO OBJECTION. NO CROSS.

12 MR. ROMANO: NO OBJECTION, NO CROSS, YOUR HONOR.

13 JUDGE MORAN: NO OBJECTION, NO CROSS.

14 THANK YOU, MR. GREEN. STAFF EXHIBIT 3.0
15 WILL BE ADMITTED.

16 (WHEREUPON, STAFF
17 EXHIBIT NO. 3.0 WAS
18 ADMITTED INTO EVIDENCE AS
19 OF THIS DATE.)

20

21

22

1 (WHEREUPON , STAFF
2 EXHIBIT NO. 1.0 WAS
3 MARKED FOR IDENTIFICATION
4 AS OF THIS DATE.)

5 A. OLUSANJO OMONIYI,
6 CALLED AS A WITNESS HEREIN, HAVING BEEN FIRST DULY
7 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY

10 MS. NAUGHTON:

11 Q. WOULD YOU PLEASE STATE YOUR NAME FOR THE
12 RECORD, SPELLING YOUR LAST NAME.

13 A. YES. MY NAME IS A OLUSANJO OMONIYI. AND MY
14 LAST NAME IS SPELLED O-M-O-N-I-Y-I.

15 JUDGE ZABAN: MR. OMONIYI, HAVE YOU BEEN
16 PREVIOUSLY SWORN?

17 MS. NAUGHTON: NO, I THINK HE WAS OUT OF THE
18 ROOM.

19 JUDGE ZABAN: WOULD YOU PLEASE STAND AND RAISE
20 YOUR RIGHT HAND?

21 (WITNESS SWORN.)

22 JUDGE ZABAN: OKAY.

1 BY MS. NAUGHTON:

2 Q. WE'LL START AGAIN.

3 WOULD YOU PLEASE STATE YOUR NAME FOR THE
4 RECORD, SPELLING YOUR LAST NAME?

5 A. YES. MY NAME IS A. OLUSANJO OMONIYI, AND MY
6 LAST NAME IS SPELLED O-M-O-N-I-Y-I.

7 Q. BY WHOM ARE YOU EMPLOYED?

8 A. ILLINOIS COMMERCE COMMISSION.

9 Q. WHAT IS YOUR POSITION WITH THE ILLINOIS
10 COMMERCE COMMISSION?

11 A. I'M A POLICY ANALYST.

12 Q. YOU HAVE BEFORE YOU ONE DOCUMENT CONSISTING
13 OF A COVER PAGE AND 12 PAGES OF TEXT IN QUESTION AND
14 ANSWER FORM.

15 WAS THIS DOCUMENT PREPARED BY YOU OR
16 UNDER YOUR DIRECTION?

17 A. YES.

18 Q. DOES THIS DOCUMENT CONSTITUTE YOUR TESTIMONY
19 IN THIS PROCEEDING?

20 A. YES.

21 Q. ARE THERE ANY CHANGES YOU WOULD LIKE TO MAKE
22 TO THIS DOCUMENT?

1 A. YES. I DO HAVE SOME CHANGES.

2 ON PAGE 9, LINE -- ON PAGE 7, LINE 9, I

3 ADDED THE WORD "INITIAL" BEFORE "DEPOSIT."

4 ON PAGE 7 --

5 MR. FRIEDMAN: I'M SORRY TO INTERRUPT YOU.

6 ADDED THE WORD?

7 THE WITNESS: INITIAL, I -N-I --

8 MR. FRIEDMAN: OH, I UNDERSTAND. WE HAVE --

9 THIS IS THE CORRECTED TESTIMONY, WHAT YOU JUST

10 HANDED ME?

11 THE WITNESS: EXACTLY.

12 MR. FRIEDMAN: OKAY.

13 BY MS. NAUGHTON:

14 Q. CONTINUE.

15 A. ON PAGE 7, LINE 9, I REMOVED THE WORDS "IF

16 DEPOSITS ARE REQUIRED," AND I REPLACED IT WITH THE

17 WORDS "IN THE CASE OF BILLING DISPUTES."

18 ALSO ON PAGE 7, LINE 11, I REPLACED "30"

19 WITH "60." INSTEAD OF "60 DAYS," I REPLACE IT WITH

20 "30 DAYS."

21 ON PAGE 7, LINE 15, I REPLACE "60" WITH

22 "30," INSTEAD OF SAYING 60 DAYS TO 30 DAYS.

1 ON PAGE 7, LINE 16, I REMOVE "9.5."

2 ON PAGE 8, LINE 2, I ALSO REPLACE THE
3 WORD "30 DAYS" WITH "60 DAYS."

4 ON PAGE 10, LINES 5 TO 15, THAT SHALL B E
5 MOVED TO PAGE 11. I MOVE IT TO PAGE 11, LINES 11 TO
6 21.

7 AND, LASTLY, ON PAGE 10, LINE 21, I
8 REPLACE IT AGAIN WITH "30 DAYS" INSTEAD OF "60
9 DAYS."

10 Q. IF I WERE TO ASK YOU THESE SAME QUESTIONS
11 TODAY, WOULD YOUR ANSWERS BE THE SAME?

12 A. YES.

13 MS. NAUGHTON: WE NOW SUBMIT ICC STAFF
14 EXHIBIT 1.0 FOR ADMITTANCE INTO THE RECORD AND
15 TENDER THE WITNESS, SANJO OMONIYI, FOR
16 CROSS-EXAMINATION IN THESE PROCEEDINGS.

17 JUDGE ZABAN: ANY OBJECTION?

18 MR. FRIEDMAN: NO OBJECTI ON.

19 MR. ROMANO: NO OBJECTION.

20 JUDGE ZABAN: WHAT WAS PREVIOUSLY MARKED AS
21 STAFF EXHIBIT NO. 1 WILL BE ADMITTED INTO
22 EVIDENCE -- SUBJECT TO CROSS-EXAMINATION AS STAFF

1 EXHIBIT NO. 1.
2 (WHEREUPON, STAFF
3 EXHIBIT NO. 1.0 WAS
4 ADMITTED INTO EVIDENCE AS
5 OF THIS DATE.)
6 JUDGE MORAN: AND IS THERE ANY CROSS FOR --
7 MR. FRIEDMAN: AMERITECH ILLINOIS HAS A BIT OF
8 CROSS.
9 JUDGE ZABAN: DENIED.
10 PLEASE PROCEED.
11 CROSS-EXAMINATION
12 BY
13 MR. FRIEDMAN:
14 Q. MR. OMONIYI, MY NAME IS DENNIS FRIEDMAN. I
15 REPRESENT AMERITECH ILLINOIS. GOOD AFTERNOON.
16 I BELIEVE THAT YOU WERE HERE FOR MOST OF
17 THE DAY ON FRIDAY, WERE YOU NOT --
18 A. YES. YES, I WAS.
19 Q. -- THAT HEARING?
20 DID YOU SEE ME DISCUSS THE ISSUE OF
21 DEPOSITS, THAT IS ISSUE NO. 7, WITH LEVEL 3 WITNESS
22 HUNT?

1 A. YES, I BELIEVE SO.

2 Q. DO YOU HAVE SOME MEMORY OF A DISCUSSION THAT
3 MR. HUNT AND I HAD ABOUT AN ILLUSTRATION THAT I
4 TRIED TO HYPOTHEZIZE INVOLVING A BUYER AND SELLER OF
5 GOODS FROM MONTH TO MONTH WITH HUNDRED -DOLLAR
6 PAYMENTS OWED, AND, ULTIMATELY, THERE WAS A QUESTION
7 WHETHER A \$400 DEPOSIT WOULD BE A REASONABLE ONE; DO
8 YOU REMEMBER THAT?

9 IT WOULDN'T NECESSARILY STICK IN THE
10 MIND.

11 A. NO, NOT PARTICULARLY.

12 Q. WELL, WITH THAT ILLUSTRATION, I WAS
13 ATTEMPTING TO DEMONSTRATE THAT A REASONABLE AMOUNT
14 FOR A DEPOSIT IS AN AMOUNT THAT IS SUFFICIENT TO
15 ENSURE THAT THE SELLER WILL WIND UP GETTING ALL THE
16 MONEY THAT THE SELLER SHOULD AT THE END OF THE DAY,
17 EVEN IF THE BUYER STOPS PAYING AND SKIPS TOWN OR
18 GOES BANKRUPT; THAT IS, THAT THE DEPOSIT AMOUNT
19 SHOULD BE ENOUGH SO THAT THE SELLER CAN TAKE THE
20 DEPOSIT AS A REPLACEMENT FOR UNPAID AMOUNTS DUE
21 UNDER THE CONTRACT.

22 AND THE QUESTION I WANTED TO ASK YOU IS

1 WHETHER YOU AGREE WITH THAT PROPOSITION; THAT IS,
2 THAT THAT'S A REASONABLE WAY TO DETERMINE A
3 REASONABLE DEPOSIT AMOUNT?

4 A. NOT PARTICULARLY, BECAUSE IT APPEARS YOUR
5 HYPOTHESIS SEEMS TO BE INDICATING THAT YOU WANT A
6 HUNDRED PERCENT DEPOSIT, OKAY?

7 ARE YOU ASKING ME THAT YOU'RE GOING TO A
8 HUNDRED PERCENT DEPOSIT OF WHAT YOU ARE EXPECTING TO
9 COLLECT FROM THE OTHER PARTY? OKAY.

10 Q. WELL, A HUNDRED PERCENT OF WHAT?

11 A. OKAY.

12 Q. FOR THE ENTIRE TERM OF THE AGREEMENT, YOU
13 MEAN?

14 A. YES. IS THAT WHAT YOU'RE ASKING ME?

15 Q. WELL, IN THE EXAMPLE THAT WE DISCUSSED --

16 A. YES.

17 Q. -- THE AGREEMENT WOULD GO FROM MONTH TO
18 MONTH.

19 A. YES.

20 Q. AND THE EXAMPLE WAS SET UP IN A WAY THAT,
21 SAY, THREE OR FOUR MONTHS' PAYMENTS MIGHT NOT BE
22 MADE AND ONLY AT THAT POINT COULD THE SELLER STOP

1 DELIVERING. AND ON THAT BASIS, THERE WAS DISCUSSION
2 ABOUT WHETHER IT WASN'T REASONABLE TO CALL FOR A
3 DEPOSIT EQUAL TO THREE OR FOUR MONTHS OF PAYMENTS.

4 SO THAT IF THREE OR FOUR MONTHS OF
5 PAYMENTS WEREN'T MADE AND THE BUYER DEFAULTED, THE
6 SELLER COULD JUST TAKE THE DEPOSIT IN PLACE OF IT.

7 A. I CAN'T REALLY AGREE WITH YOUR HYPOTHESIS
8 BECAUSE I WOULD HAVE TO THINK IN TIME OF HOW MUCH
9 ARE WE TALKING ABOUT, OKAY?

10 YOU KNOW, I THINK I REFER TO A NUMBER OF
11 SCENARIO MYSELF --

12 Q. RIGHT.

13 A. -- IN MY VERIFIED STATEMENT.

14 AND I DO INDICATE TO BOTH PARTIES THAT,
15 LOOKING AT WHAT HAS BEEN SUBMITTED SO FAR, I JUST
16 COULD NOT MAKE A REASONABLE ESTIMATE OF WHAT WOULD
17 CONSTITUTE A DEPOSIT FOR AMERITECH.

18 AND IF I MAY FINISH --

19 Q. HM-HMM.

20 A. WHAT I MEAN BY THAT IS THAT BOTH PARTIES
21 SUBMIT THEIR CONFLICTING FIGURES.

22 AT ONE POINT IN TIME, I BELIEVE IT WAS

1 MR. HUNT IN HIS DIRECT TESTIMONY. HE WAS REFERRING
2 TO AN ASTRONOMICAL FIGURE, SOMETHING LIKE SIX
3 FIGURES, LIKE 900,000, \$700,000, OR SOMETHING IN
4 THAT RANGE.

5 AND AT THAT POINT IN TIME, I LOOK AT WHAT
6 AMERITECH WAS TALKING ABOUT AT THE SAME TIME UNTIL A
7 FEW DAYS AGO, WHEN I DID RECEIVE MR. SEAVER'S
8 (PHONETIC) REBUTTAL TESTIMONY SAYING THAT THEY'RE
9 TALKING ABOUT 135 -- \$134,000.

10 THE QUESTION THEN COMES IN, WHICH OF
11 THESE FIGURES CAN I REALLY LOOK AT TO MAKE A
12 REASONABLE GUESS. BECAUSE BOTH OF YOU SEEM TO
13 INDICATE THAT YOU ARE ASKING ANYWHERE FROM \$17,000
14 TO FOUR MONTHS OF -- OF -- OF PROJECTED BILLINGS.

15 AND THE FIGURE LOOKING AT BOTH PARTIES,
16 THE RANGE FROM \$17,000 ALL THE WAY TO \$700,000, I
17 JUST CAN'T REALLY MAKE ANY EDUCATED GUESS AT THAT
18 POINT IN TIME.

19 AND GOING BY YOUR HYPOTHESIS AS WELL, I
20 WILL HAVE TO SEE THE FIGURES FROM BOTH PARTIES.

21 MR. FRIEDMAN: ALL RIGHT. THANK YOU.

22 I HAVE NO ADDITIONAL QUESTIONS.

1 JUDGE ZABAN: MR. ROMANO?

2 MR. ROMANO: NO QUESTIONS, YOUR HONOR.

3 THANK YOU.

4 JUDGE ZABAN: MR. PENA?

5 MR. PENA: NO QUESTIONS.

6 JUDGE ZABAN: MS. NAUGHTON, DO YOU HAVE

7 REDIRECT?

8 MS. NAUGHTON: I DON'T THINK SO. NOPE.

9 JUDGE ZABAN: OKAY. DO WE HAVE ANY FURTHER

10 WITNESSES?

11 JUDGE MORAN: THE WITNESS IS EXCUSED.

12 THANK YOU VERY MUCH. WE HAVE SOME

13 SIMILAR QUESTIONS FOR YOU LATER.

14 JUDGE ZABAN: THESE WON'T BE HYPOTHETICAL.

15 WE'RE GOING TO PIN HIM DOWN ON THESE.

16 OKAY. SO THAT CONCLUDES THE HEARING.

17 JUDGE MORAN: IS THERE ANYTHING THAT WE NEED TO

18 STILL DISCUSS ON THE RECORD?

19 JUDGE ZABAN: I DO HAVE A REQUEST OF THE

20 PARTIES.

21 THIS ARBITRATION SEEMS TO BE A LIVING,

22 BREATHING DOCUMENT, OKAY? AND IT'S KIND OF MY

1 FAULT. I WOULD LIKE TO HAVE DONE THIS IN THE PAST.

2 I WOULD LIKE BY WEDNESDAY A MATRIX OF
3 ISSUES FROM THE TWO PARTIES AS TO WHAT ISSUES ARE
4 STILL OPEN AND WHAT THE POSITION OF EACH PARTY IS AS
5 TO THOSE -- AS TO THOSE ISSUES. I THINK IT WILL BE
6 VERY BENEFICIAL TO US SO THAT -- IN HELPING US MAKE
7 A DETERMINATION.

8 ALSO, I WOULD LIKE YOU TO KEEP US UPDATED
9 IF YOUR POSITIONS CHANGE OR IF ANY OF THE ISSUES ARE
10 RESOLVED, SETTLED IN THE PROCESS.

11 I UNDERSTAND, ALTHOUGH WE'RE TERMINATING
12 TESTIMONY TODAY, AS WE GET CLOSER TO SOME THINGS, WE
13 MAY BE COMPELLED TO OPEN THIS UP A LITTLE BIT TO GET
14 SOME ADDITIONAL INFORMATION. SO I WANT THE PARTIES
15 TO REMAIN AVAILABLE. AND, NOW, WE DO NEED TO SET A
16 SCHEDULE FOR BRIEFING.

17 AS I EXPLAINED BEFORE, WE HAVE SOME -- WE
18 HAVE A DEADLINE, I BELIEVE, OF AUGUST 30TH TO COME
19 TO SOME RESOLVE ON THIS. WE HAVE TWO PROBLEMS AND,
20 THAT IS, ONE IS THE AVAILABILITY OF THE BOARD, AND
21 THE OTHER IS MS. MORAN MAY NOT BE AVAILABLE TOWARDS
22 THE END OF THE MONTH. SO I WOULD LIKE TO DO THIS ON

1 SOME KIND OF EXPEDITED SCHEDULE.

2 REALISTICALLY, HOW LONG DO THE PARTIES
3 THINK THEY WOULD NEED TO GET THEIR INITIAL BRIEFS
4 IN?

5 (DISCUSSION OFF THE RECORD.)

6 JUDGE ZABAN: ALL RIGHT. SO, CURRENTLY, THERE
7 BEING NO FURTHER TESTIMONY, WE WILL SET JULY 31ST
8 FOR THE DAY THAT THE INITIAL BRIEFS ARE DUE; THAT WE
9 WILL HAVE A HEPO BY AUGUST 7TH.

10 THE EXCEPTIONS WILL BE DUE ON THE 11TH,
11 AND THEN ANY REPLY TO THE EXCEPTIONS WILL BE DUE ON
12 AUGUST 14TH.

13 JUDGE MORAN: WE PROBABLY HAVE TO HAVE THOSE
14 REPLY BRIEFS DUE TO US ON THE 14TH BY NOON.

15 JUDGE ZABAN: RIGHT.

16 JUDGE MORAN: WE NEED TO INCORPORATE THEM --

17 JUDGE ZABAN: OKAY. THEN YOU WILL PROVIDE WITH
18 US WITH MATRICES THIS WEEK. THAT'S GREAT.

19 OKAY. ANYTHING FURTHER?

20 OKAY. THAT CONCLUDES THE HEARING. WE'LL
21 MARK IT HEARD AND TAKEN.

22 HEARD AND TAKEN. . . .

1 CERTIFICATE OF REPORTER
2
3 STATE OF ILLINOIS)
4)
5 COUNTY OF DU PAGE)
6 CASE NO. 00-0332
7 TITLE: LEVEL 3 COMMUNICATIONS
8 I, STEVEN STEFANIK DO HEREBY CERTIFY THAT I AM A
9 COURT REPORTER CONTRACTED BY SULLIVAN REPORTING
10 COMPANY, OF CHICAGO, ILLINOIS; THAT I REPORTED IN
11 SHORTHAND THE EVIDENCE TAKEN AND THE PROCEEDINGS HAD
12 IN THE HEARING ON THE ABOVE-ENTITLED CASE ON THE
13 17TH DAY OF JULY A.D. 2000; THAT THE FOREGOING 256
14 PAGES ARE A TRUE AND CORRECT TRANSCRIPT OF MY
15 SHORTHAND NOTES SO TAKEN AS AFORESAID, AND CONTAINS
16 ALL THE PROCEEDINGS DIRECTED BY THE COMMISSION OR
17 OTHER PERSON AUTHORIZED BY IT TO CONDUCT THE SAID
18 HEARING TO BE STENOGRAPHICALLY REPORTED.
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20 DATED AT CHICAGO, ILLINOIS, THIS 21ST DAY
21 OF JULY A.D. 2000.
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